

## ARCHITECT-ENGINEER CONTRACT

1. CONTRACT NO.  
68-W-98-2252. DATE OF CONTRACT  
10/1/983A. NAME OF ARCHITECT-ENGINEER  
CH2M HILL Inc.3B. TELEPHONE NO. (Include Area Code)  
(510)251-2426

3C. ADDRESS OF ARCHITECT-ENGINEER (Include ZIP Code)

1111 BROADWAY  
SUITE 1200  
Oakland, CA 94607

4. DEPARTMENT OR AGENCY AND ADDRESS (Include ZIP Code)

Environmental Protection Agency  
215 FREMONT STREET  
SAN FRANCISCO, CA 94105

5. PROJECT TITLE AND LOCATION

REGION 9 RESPONSE ACTION CONTRACT

6. CONTRACT FOR (General description of services to be provided)

Architect-Engineering, technical and management services in support of EPA's remedial response, enforcement oversight, and non-time critical removals activities under CERCLA and SARA.

7. CONTRACT AMOUNT (Express in words and figures)

Seventeen million, eight hundred ninety seven thousand, two hundred seventy five dollars.

8. NEGOTIATION AUTHORITY

40 U.S.C. 541

9. ADMINISTRATIVE, APPROPRIATION, AND ACCOUNTING DATA

10. The United States of America (called the Government) represented by the Contracting Officer executing this contract, and the Architect-Engineer agree to perform this contract in strict accordance with the clauses and the documents identified as follows, all of which are made a part of this contract:

*Richard D. Medlin* 9-29-98

RICHARD D. MEDLIN  
CONTRACTING OFFICER

ORIGINAL

If the parties to this contract are comprised of more than one legal entity, each entity shall be jointly and severally liable under this contract.  
The parties hereto have executed this contract as of the date recorded in Item 2.

SIGNATURES		NAMES AND TITLES (Typed)
11. ARCHITECT-ENGINEER OR OTHER PROFESSIONAL SERVICES CONTRACTOR		
A	<i>Michael Tilchin</i>	Michael Tilchin, Vice President 9/29/98
B		
C		
D		
12. THE UNITED STATES OF AMERICA		

STANDARD FORM 252 BACK (REV. 10-83)

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## PART I - THE SCHEDULE

## SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS

DCN	BFYS	APPR NUMBER	ORG	PROGRAM ELEMENT	SITE/ PROJECT	COST ORG	OBJ CLSS	AMOUNT	P / C
H8S096	98	T	09K	FAX	00000000	C001	2505	\$500,000.00	P
HJ8039	98	T	9AKOJ	FAX	00000000	C001	2505	\$4,890,000.00	P
HR8008	98	T	9AKOR	FAX	00000000	C001	2505	\$300,000.00	P
HE8053	98	T	9AKOE	FAX	094RRV00	COO1	2505	\$35,000.00	P

**B.1 LEVEL OF EFFORT--COST REIMBURSEMENT TERM CONTRACT (EPAAR 1552.211-73)  
(APR 1984) DEVIATION**

(a) The Contractor shall perform all work and provide all required reports within the level of effort specified below. The Government will order 53,226 direct labor hours for the base period which represents the Government's best estimate of the level of effort required to fulfill these requirements.

(b) Direct labor includes personnel such as engineers, scientists, draftsmen, technicians, statisticians, technical other (TO) and programmers and not support personnel such as company management or clerical even though such support personnel are normally treated as direct labor by the Contractor. The level of effort specified in paragraph (a) includes Contractor, subcontractor, and consultant labor hours.

(c) Under any circumstances, if the Government orders or the Contractor provides less than 90 percent of the level of effort specified for the base period or any optional period exercised, an equitable downward adjustment of the fixed fee, if any, for that period will be made. The Government may require the Contractor to provide additional effort up to 110 percent of the level of effort for any period until the estimated cost for that period has been reached. However, this additional effort shall not result in any increase in the fixed fee, if any. If this is a cost-plus-incentive-fee (CPIF) contract, the term "fee" in this paragraph means "base fee and incentive fee." If this is a cost-plus-award-fee (CPAF) contract, the term "fee" in this paragraph means "base fee and award fee."

(d) If the level of effort specified to be ordered during a given base or option period is not ordered during that period, that level of effort may not be accumulated and ordered during a subsequent period.

(e) These terms and conditions do not supersede the requirements of either the "Limitation of Cost" or "Limitation of Funds" clauses.

**B.2 WORK ASSIGNMENTS (TERM FORMO**

(a) The Contractor shall perform work under this segment of the contract as specified in written work assignments issued by the Contracting Officer and designated as "Term Form" work assignments. The Term Form work assignment will describe the scope of work (within the overall scope of work of the contract) and obligate the contractor to devote a specified level of effort for a stated time period.

(b) Each term form work assignment will include (1) a numerical designation, (2) the estimate of required labor hours, (3) the period of performance and schedule of deliverables, (4) expenditure limit, (5) the scope of work for the work assignment, and (6) the name and phone number for the assigned Work Assignment Manager (WAM).

(c) The Contractor shall acknowledge receipt of each work assignment issued under this segment by returning a signed copy of the work assignment to the Contracting Officer within five (5) working days after its receipt. EPA may utilize electronic systems to transmit formal documents (e.g., work assignments) to the contractor. If these electronic systems are utilized on official contract documents, the contractor agrees to recognize these electronic signatures as official signatures on these documents for both EPA and/or contractor representatives.

(d) The Contractor may start work, as specified in the work assignment, immediately upon receipt of the work assignment while concurrently preparing a detailed work plan for performance of work under the work assignment and may work up to the expenditure limit in the work assignment. The work plan shall include a detailed description of the technical work to be performed (by task) and a comprehensive, independent cost breakdown, in accordance with the elements specified in FAR 15.804-6, Table 15-2, Item 8B, by element of cost, by task, and totals. The work plan shall be submitted thirty (30) calendar days after the scoping meeting, in the number of copies and to the recipients designated in the work assignment or by technical direction.

(e) The Contracting Officer will negotiate the work plan by elements of cost, as required, and provide written approval or disapproval to the Contractor. Approval of a work plan budget does not relieve the contractor of the requirements of paragraph (g) below regarding expenditure limits, level of effort or period of performance. If the contractor has not received approval of a workplan within 75 calendar days of the scoping meeting, the contractor shall stop all work on that work assignment and notify the Contracting Officer, Project Officer, and Work Assignment Manager of that fact in writing. Subsequent to this notice, no work shall be performed without the written authorization of the Contracting Officer.

(f) In the event that the Contracting Officer formally disapproves the work plan, all work under that work assignment shall immediately cease until the problem causing the disapproval is resolved and written approval to proceed is received from the Contracting Officer.

(g) All effort performed under the Term Form segment of the contract shall be reported separately from the Completion form segment of the contract. The contractor shall not exceed the expenditure limit, levels of effort, or period of performance for a work assignment without the express written approval of the Contracting Officer. The Government shall not reimburse the contractor for costs incurred in excess of the expenditure limit and the contractor is not obligated to continue performance of a work assignment or otherwise to



incur costs in excess of the expenditure limit unless and until the Contracting Officer shall have notified the Contractor in writing that such expenditure limit has been increased and shall have specified in such notice a revised amount.

(h) In the event the option to extend the contract term is exercised, work assignments initiated in the base period, which have a specified completion date which extends into the option period, are hereby deemed to extend into the option period. Nonetheless, all hours and associated costs expended during the option period shall be charged to that option period's hours and estimated costs. Work assignments issued with a completion date extending into the option period must refer to this provision.

(i) This clause does not change the requirements of the "Level of Effort" clauses, nor the notification requirements of either the "Limitation of Cost" or "Limitation of Funds" clauses.

(j) Work assignments shall not allow for any change to the terms or conditions of the contract. Where any language in the work assignment may suggest a change to the terms or conditions, the contractor shall immediately notify the Contracting Officer.

(k) Within 5 business days of receipt of the work assignment or similar tasking document, the Contractor shall provide a conflict of interest certification. Where work assignments or similar tasking documents are issued under this contract for work on or directly related to a site, the Contractor is only required to provide a conflict of interest certification for the first work assignment issued for that site. For all subsequent work on that site under this contract, the Contractor has a continuing obligation to search and report any actual or potential conflicts of interest, but no additional conflict of interest certifications are required.

(l) Before submitting the conflict of interest (COI) certification, the contractor shall search its records accumulated, at a minimum, over the past three years immediately prior to the receipt of the work assignment or similar tasking document. In the COI certification, the Contractor must certify to the best of the Contractor's knowledge and belief, that all actual or potential organizational conflicts of interest have been reported to the Contracting Officer or that to the best of the Contractor's knowledge and belief, no actual or potential organizational conflicts of interest exist. In addition, the Contractor must certify that its personnel who perform work under this work assignment or relating to this work assignment have been informed of their obligation to report personal and organizational conflicts of interest to the Contractor. The certification shall also include a statement that the Contractor recognizes its continuing obligation to identify and report any actual or potential conflicts of interest arising during performance of this work assignment or other work related to this site.

### **B.3 WORK ASSIGNMENTS (COMPLETION FORM)**

(a) The contractor shall perform work under this segment of the contract as specified in written work assignments issued by the Contracting Officer and designated as "Completion Form" work assignments. The Completion Form work assignment will describe the scope of work by stating a definite goal or

target and specifying an end product or products. Work assignments issued under this segment will require the contractor to complete and deliver the specified end product(s) within the negotiated estimated cost of the work assignment as a condition for payment of the entire base fee. In the event that work cannot be completed within the estimated cost of the work assignment, the Government may require more effort without increase in any fees (base and award), provided the Government increases the estimated cost for the work assignment.

(b) Each work assignment will include (1) a numerical designation, (2) the period of performance and schedule of deliverables and end products, (3) the scope of work for the work assignment, (4) expenditure limit, and (5) the name and phone number for the assigned Work Assignment Manager (WAM).

(c) The Contractor shall acknowledge receipt of each work assignment issued under this segment by returning a signed copy of the work assignment to the Contracting Officer within five (5) working days after it's receipt. EPA may utilize electronic systems to transmit formal documents (e.g., work assignments) to the contractor. If these electronic systems are utilized on official contract documents, the contractor agrees to recognize these electronic signatures as official signatures on these documents for both EPA and/or contractor representatives.

(d) The Contractor may start work, as specified in the work assignment form, immediately upon receipt of the work assignment while concurrently preparing a detailed work plan for performance of work under the work assignment, and may work up to the expenditure limit in the work assignment. The work plan shall include a detailed description of the technical work to be performed (by task) and a comprehensive, independent cost breakdown, in accordance with the elements specified in FAR 15.804-6, Table 15-2, Item 8B, by element of cost, by task, and totals. The workplan shall be submitted thirty (30) calendar days after the scoping meeting in the number of copies and to the recipients designated in the work assignment or by technical direction.

(e) At a time and place specified by the Contracting Officer, the parties will negotiate the cost and fees for the work assignment in accordance with the established fee structure. Upon successful completion of negotiations, the Contracting Officer will provide written confirmation of the estimated cost and fees for the work assignment. If the contractor has not received approval of a workplan within 75 calendar days of the scoping meeting, the contractor shall stop all work on the work assignment and notifying the Contracting Officer, Project Officer, and Work Assignment Manager of that fact in writing. Subsequent to this notice, no work shall be performed without the written authorization of the Contracting Officer.

(f) In the event that the Contracting Officer formally disapproves the work plan, all work under that work assignment shall immediately cease until the problem causing the disapproval is resolved and written approval to proceed is received from the Contracting Officer.

(g) All effort performed under the Completion Form segment of the contract shall be reported separately from the Term Form segment of the contract. The contractor shall not exceed the expenditure limits and estimated cost for a work assignment without the express written approval of the Contracting Officer. The Government shall not reimburse the contractor for costs incurred in excess of the expenditure limit and the Contractor is not obligated to

continue performance of a work assignment or otherwise to incur costs in excess of the expenditure limit unless and until the Contracting Officer shall have notified the Contractor in writing that such expenditure limit has been increased and shall have specified in such notice a revised amount.

(h) Completion ceilings for completion form work assignments issued in the base period will not be affected by exercising the option to extend the contract term.

(I) Work assignments shall not allow for any change to the terms or conditions of the contract. Where any language in the work assignment may suggest a change to the terms or conditions, the contractor shall immediately notify the Contracting Officer.

(j) Within 5 business days of receipt of the work assignment or similar tasking document, the Contractor shall provide a conflict of interest certification. Where work assignments or similar tasking documents are issued under this contract for work on or directly related to a site, the Contractor is only required to provide a conflict of interest certification for the first work assignment issued for that site. For all subsequent work on that site under this contract, the Contractor has a continuing obligation to search and report any actual or potential conflicts of interest, but no additional conflict of interest certifications are required.

(k) Before submitting the conflict of interest (COI) certification, the contractor shall search its records accumulated, at a minimum, over the past three years immediately prior to the receipt of the work assignment or similar tasking document. In the COI certification, the Contractor must certify to the best of the Contractor's knowledge and belief, that all actual or potential organizational conflicts of interest have been reported to the Contracting Officer or that to the best of the Contractor's knowledge and belief, no actual or potential organizational conflicts of interest exist. In addition, the Contractor must certify that its personnel who perform work under this work assignment or relating to this work assignment have been informed of their obligation to report personal and organizational conflicts of interest to the Contractor. The certification shall also include a statement that the Contractor recognizes its continuing obligation to identify and report any actual or potential conflicts of interest arising during performance of this work assignment or other work related to this site.

#### **B.4 AWARD FEE (EPAAR 1552.216-70) (SEP 1995)**

(a) The Government shall pay the contractor a base fee, if any, and such additional fee as may be earned, as provided in the award fee plan incorporated into the Schedule.

(b) Award fee determinations made by the Government under this contract are unilaterally determined by the Fee Determination Official (FDO) and are not subject to appeal under the Disputes clause.

(c) The Government may unilaterally change the award fee plan at any time, via contract modification, at least thirty (30) calendar days prior to the beginning of the applicable evaluation period. Changes issued in a unilateral modification are not subject to equitable adjustments, consideration, or any other renegotiation of the contract.

**B.5 ESTIMATED COST (EP 52.216-180) (APR 1984)**

(a) The estimated cost, base fee, award fee pool and total estimated cost plus fees, and the ceiling on the completion form segment are as follows:

Term Form	\$2,692,555
Subcontract pool	\$5,000,000
Subcontract URSG	\$4,113,027
Subcontract E2C	\$ 173,894
Base Fee	\$ 107,702
Base Fee Subcontract	\$ 185,7738
Award Fee	\$ 161,553
Award Fee Subcontract	\$ 273,390
Pollution Liab.Ins.	\$ 189,416
Estimated Cost	\$13,397,275

Mobilization	\$ 109,439	} 5M.
Fixed Price Program Support	\$3,464,040	
Remaining completion form ceiling	\$1,426,521	
<u>Total Base Period-Base Quantity</u>	<u>\$17,897,275</u>	

(b) This contract will be modified to reflect the award fee awarded as award fee determinations are made.

(c) The Subcontracting Pool, although listed separately within this clause for clarity, is a sub-element of the Term Form Segment of the contract.

**B.6 WORK ASSIGNMENTS (COMPLETION FORM-FIXED PRICE)**

Contractor and Contracting Officer may mutually agree to issue fixed price completion form work assignments in accordance with Clause H.2 herein.

**B.7 EQUIPMENT POOL (TERM FORM SEGMENT)**

a) There is no Equipment Pool in this contract. All costs for the lease/rental of equipment necessary to perform this contract have been included in the subcontract pool, and the Other Direct Cost amounts set forth elsewhere in this contract. The contractor shall not exceed this amount without first obtaining the prior written approval of the EPA Contracting Officer.

(b) The contractor agrees to perform lease vs. purchase analysis as needed in order to provide the most efficient means of providing the equipment required by work under this contract. If overall costs to the government will decrease, the contractor agrees to purchase any such equipment and, using agreed upon leasing rates, charge this contract a reasonable amount for the use of the equipment hereunder.

**B.8 COMPLETION FORM CEILING**

(a) The Completion Form Ceiling of \$5,000,000 represents costs (including travel and other direct costs), base fee, award fee, or profit. Any work

assignments issued under this Completion Form Ceiling on a CPAF basis shall contain base fees not in excess of 4% nor award fees in excess of 6%. As completion form work assignments are issued and negotiated, the contract will be modified to obligate funds, or to reallocate funding in the schedule set forth in the clause of this contract entitled "LIMITATION OF FUNDS -- COST-PLUS-AWARD-FEE CONTRACT", associated with each completion form work assignment to reflect, by work assignment numerical designation, the funds so obligated or reallocated and to reflect completion form segment base and award fees, or the fixed price, as applicable, associated with each completion form work assignment.

(b) Subcontracting efforts and rental/lease of equipment pertaining to specific activities issued under completion form work assignments shall be charged against the overall completion ceiling.

(c) If the full completion form ceiling dollars are under-utilized, the Government shall issue a unilateral modification decreasing the completion form ceiling representing the unused portion of the completion form ceiling inclusive of associated costs and prorated fees/profits.

(d) Inclusion of the completion form ceiling shall not be construed as obligating the Government to issue any completion form work assignments. Costs and fees and/or profits associated with completion efforts shall only be payable for work performed under any completion form work assignments issued in accordance with the clause of this contract entitled "WORK ASSIGNMENTS (COMPLETION FORM SEGMENT)" or "FIXED PRICE WORK ASSIGNMENTS"

**B.9 LIMITATION OF FUNDS--COST-PLUS-AWARD-FEE CONTRACT (EP 52.232-110) (APR 1984)**

(a) Pursuant to the clause in this contract entitled "Limitation of Funds," funds have been allotted for the payment of allowable costs and fees estimated to be incurred for the contract period ending approximately December 31, 1999 for the term portion of the contract.

Funding is allocated in accordance with the following schedule:

Estimated Costs	\$4,833,452
Base Fee	\$ 130,516
Award Fee Pool	\$ 261,032

TOTAL FUNDS \$5,225,000

Incremental funding of base fee is computed at 2.7%, and incremental funding of award fee is computed at 5.4%.

(b) The provisions of the clause entitled "Limitation of Funds" shall become inapplicable at such time as an amount equal to the sum of the total estimated cost, base fee, award fee pool available for award, and award fee awarded, set forth in the schedule of this contract, is allotted to this contract and the clause entitled "Limitation of Cost" shall be applicable.

(c) Pursuant to the clause in this contract entitled "Limitation of Funds," funds have been allotted for the payment of allowable program support costs and fees estimated to be incurred for the contract period ending approximately April 30, 1999 for the completion portion of the contract.

Total Fixed Price \$500,000

#### B.10 PROGRAM SUPPORT WORK ASSIGNMENTS

(a) The contractor shall provide on-going program support at the firm fixed prices, in accordance with the schedule below:

<u>Period</u>	<u>Rate</u>	<u>Total per year</u>
Base year 1	\$69,000/month	\$828,000
year 2	\$71,070/month	\$852,840
year 3	\$73,202/month	\$878,424
year 4	\$75,398/month	\$904,776
Total		\$3,464,040

#### B.11 MOBILIZATION

(a) The contractor has agreed to perform all mobilization activities under the completion form of the contract, for a fixed price of \$109,439.

#### B.12 SUBCONTRACTING POOL FOR SITE SPECIFIC INVESTIGATIONS AND CONSTRUCTION (TERM FORM SEGMENT) (RACS-B-96-4)

(a) All subcontracting pertaining to specific activities required under Term Form work assignments shall not exceed \$5,000,000 inclusive of fee. This amount represents the total award value of all site specific subcontracts issued under the term form segment, and contains all direct or indirect cost allocations of the prime contractor. The contractor shall not exceed this amount without first obtaining the prior written approval of the EPA Contracting Officer.

(b) This subcontracting pool is separate and distinct from amounts negotiated for subcontractors which constitute part of the prime contractor's permanent contract team. All subcontracting which is to be accomplished through this subcontracting pool must be competed by each prime contractor, unless written approval to the contrary is obtained from the EPA Contracting Officer. Specific activities which generally necessitate utilization of the pool include, but are not limited to: initial response actions, well-drilling, analytical services (when not provided by the Government), special consultants to support technical projects or to serve as expert witnesses, aerial mapping, surveying, fencing, construction activities associated with a Remedial Action (RA).

(c) If the full subcontracting pool dollars are under-utilized, there may be a unilateral decrease in the subcontracting pool representing the unused portion of the subcontracting pool inclusive of associated costs and fees.

#### B.13 SPECIAL LIMITATION OF COST PROVISION FOR WORK ASSIGNMENTS (RACS-B-96-7)

(a) The purpose of this clause is to specify cost controls which will apply

to cost reimbursement term form work assignments and completion form work assignments. This clause is not applicable to any work assignments issued on a fixed price basis, pursuant to Clause B.6 of this contract. In the following clause, "work plan budget" shall refer to the approved work plan cost estimate on the SF 1411 to perform work under a term or completion form work assignment. (See also B.2(g) and B.3(a)).

(b) The contractor agrees to use its best efforts to perform the work specified in each term form or completion form work assignment issued under this contract within the approved work plan budget. If, at any time, the Contractor has reason to believe that the total cost for performance of a work assignment, exclusive of fee, will be greater or at least 10% less than the work plan budget, the Contractor shall notify the Contracting Officer and the Work Assignment Manager in writing to that effect, giving his revised estimate of the total cost for the performance of that work assignment.

(c) Except as required by other provisions of this contract specifically cited and stated to be an exception to this clause, the Government shall not be obligated to reimburse the Contractor for costs incurred in performing a work assignment in excess of the work plan expenditure limit, and the Contractor shall not be obligated to continue performance of a work assignment or otherwise to incur costs in excess of the work plan expenditure limit.

## SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

## C.1 NOTICE REGARDING PROHIBITED CONTRACTOR ACTIVITIES ON ENVIRONMENTAL PROTECTION AGENCY (EPA) CONTRACTS (EP 52.000-000) (NOV 1994) DEVIATION

The Contractor shall not perform any of the following activities on behalf of EPA in connection with this contract:

1. The actual preparation of Congressional testimony.
2. The interviewing or hiring of individuals for employment at EPA.
3. Developing and/or writing of Position Descriptions and Performance Standards.
4. The actual determination of Agency policy.
5. Participating as a voting member on a Performance Evaluation Board; participating in and/or attending Award Fee meetings.
6. Preparing Award Fee Letters, even under typing services contracts.
7. The actual preparation of Award Fee Plans.
8. The preparation of documents on EPA Letterhead other than routine administrative correspondence.
9. Reviewing vouchers and invoices for the purposes of determining whether costs, hours, and work performed are reasonable.
10. The preparation of Statements of Work, Work Assignments, Technical Direction Documents, Delivery Orders, or any other work issuance document under a contract that the contractor is performing or may perform. Such a work issuance document, prepared by an EPA prime contractor under an EPA prime contract for its subcontractor, is exempt from this prohibition.
11. The actual preparation of responses to audit reports from the Inspector General, General Accounting Office, or other auditing entities.
12. Preparing responses to Congressional correspondence.
13. The actual preparation of responses to Freedom of Information Act requests, other than routine, non-judgmental correspondence.
14. Performing any activity which authorizes a contractor to represent itself as EPA to outside parties.
15. Conducting administrative hearings.
16. Reviewing findings concerning the eligibility of EPA employees for security clearances.



17. The actual preparation of an office's official budget request.

**C.2 STATEMENT OF WORK--CONTRACT WHERE WORK IS ORDERED BY WORK ASSIGNMENTS OR DELIVERY ORDERS (EP 52.210-110) (APR 1984)**

The Contractor shall furnish the necessary personnel, material, equipment, services and facilities (except as otherwise specified), to perform the Statement of Work/Specifications included in Attachment A.

The Contractor shall perform work under this contract only as directed in work assignments issued by the Contracting Officer in accordance with the clauses in Section B entitled, Work Assignments (TERM FORM SEGMENT), and Work Assignments (COMPLETION FORM SEGMENT).

**C.3 COMPLIANCE WITH EPA POLICIES FOR INFORMATION RESOURCES MANAGEMENT (EPAAR 1552.211-79) (JUN 1996)**

(a) Definition. Information Resources Management (IRM) is defined as any planning, budgeting, organizing, directing, training, promoting, controlling, and managing activities associated with the burden, collection, creation, use and dissemination of information. IRM includes both information itself, and the management of information and related resources such as personnel, equipment, funds, and technology. Examples of these services include but are not limited to the following:

(1) The acquisition, creation, or modification of a computer program or automated data base for delivery to EPA or use by EPA or contractors operating EPA programs.

(2) The analysis of requirements for, study of the feasibility of, evaluation of alternatives for, or design and development of a computer program or automated data base for use by EPA or contractors operating EPA programs.

(3) Services that provide EPA personnel access to or use of computer or word processing equipment, software, or related services.

(4) Services that provide EPA personnel access to or use of: Data communications; electronic messaging services or capabilities; electronic bulletin boards, or other forms of electronic information dissemination; electronic record-keeping; or any other automated information services.

(5) Services that are subject to the Brooks Act of 1965, as amended (Pub. L. 89-306).

(b) General. The Contractor shall perform any IRM related work under this contract in accordance with the IRM policies, standards and procedures set forth in this clause and noted below. Upon receipt of a work request (i.e. delivery order or work assignment), the Contractor shall check this listing of directives (see paragraph (d) for electronic access). The applicable directives for performance of the work request are those in effect on the date of issuance of the work request.

(1) IRM Policies, Standards and Procedures. The 2100 Series (2100-2199) of the Agency's Directive System contains the majority of the Agency's IRM policies, standards and procedures.

(2) Groundwater Program IRM Requirement. A contractor performing any work related to collecting Groundwater data; or developing or enhancing data bases containing Groundwater quality data shall comply with EPA Order 7500.1A - Minimum Set of Data Elements for Groundwater.

(3) EPA Computing and Telecommunications Services. The Enterprise Technology Services Division (ETSD) Operational Directives Manual contains procedural information about the operation of the Agency's computing and telecommunications services. Contractors performing work for the Agency's National Computer Center or those who are developing systems which will be operating on the Agency's national platforms must comply with procedures established in the Manual. (This document is only available through electronic access.)

(c) Printed Documents. Documents listed in (b)(1) and (b)(2) may be obtained from:

U.S. Environmental Protection Agency  
Office of Administration  
Facilities Management and Services Division  
Distribution Section  
Mail Code: 3204  
401 M Street, S.W.  
Washington, D.C. 20460  
Phone: (202) 260-5797

(d) Electronic Access.

(1) Internet. A complete listing, including full text, of documents included in the 2100 Series of the Agency's Directive System, as well as the two other EPA documents noted in this clause, is maintained on the EPA Public Access Server on the Internet. Gopher Access: [gopher.epa.gov](http://gopher.epa.gov) is the address to access the EPA Gopher. Select 'menu keyword search' from the menu and search on the term 'IRM Policy'. Look for *IRM Policy, Standards and Guidance*. World Wide Web Access: <http://www.epa.gov> is the address for the EPA's www homepage. From the homepage, search on the term 'IRM Policy' and look for *IRM Policy, Standards and Guidance*.

(2) Dial-Up Modem. All documents, including the listing, are available for browsing and electronic download through a dial-up modem. Dial (919) 558-0335 for access to the menu that contains the listing for EPA policies. Set the communication parameters to 8 data bits, no parity, 1 stop bit (8,N,1) Full Duplex, and the emulator to VT-100. The information is the same whether accessed through dial-up or the Internet. For technical assistance, call 1-800-334-2405.

#### C.4 ACQUISITION AND USE OF ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES (EP-S 97-1) (APR 1997).

(a) Executive Order 12873 of October 20, 1993, entitled "Federal

Acquisition, Recycling, and Waste Prevention" and Section 6002 of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended (42 U.S.C. 6962, Pub L. 94-580, 90 Stat. 2822) require Federal agencies to procure designated items with the highest recovered materials content practicable.

(b) In the performance of this contract, the Contractor shall comply with the requirements of the following issuances:

(1) Title 40 of the Code of Federal Regulations, Part 247, Comprehensive Guideline for Procurement of Products Containing Recovered Materials (CPG), which designates items that are or can be made with recovered materials, and its companion pieces, the Recovered Materials Advisory notices (RMANS). THE CPG and RMANS provide recommended procurement practices, including recommended recovered material content levels, for purchasing products designated in the CPG. The Contractor shall comply with these recommendations, and such other CPG revisions and RMANS as the Environmental Protection Agency (EPA) may issue with respect to the procurement of products that contain recovered materials. (Copies of the CPG or RMANS, as well as information on manufacturers and vendors of designated items may be obtained by calling EPA's RCRA Hotline at (800) 424-9346, or, in the Washington, D.C., metropolitan area, at (703) 412-9810.)

(2) In complying with the requirements of paragraph (b), the Contractor shall coordinate its concerns and program guidance with EPA's Recycling Coordinator.

(c) The Contractor shall prepare and submit reports on the purchase of products containing recovered materials from time to time in accordance with written direction (e.g., in specified format) from the EPA Recycling Coordinator through the Contracting Officer. Reports shall be submitted to the EPA Recycling Coordinator, with a copy to the Contracting Officer, Mail Code 3204, Washington, D.C. 20460

#### **C.5 INCORPORATION OF CONTRACTOR'S QUALITY ASSURANCE (QA) PROJECT PLAN AND QUALITY MANAGEMENT PLAN (RACS-C-96-1)**

The Contractor shall adhere to the procedures set forth in Attachment I to this contract entitled "Quality Assurance Project Plan", and Attachment H, entitled "Quality Management Plan."

#### **C.6 PROHIBITION OF INTERCOMPANY WORK EXCHANGE AGREEMENTS (ICWEAs)**

The contractor is prohibited from obtaining speciality resources from its "sister" corporations that are wholly owned by CH2M HILL COMPANIES, LTD. without prior written consent from the Contracting Officer.

## SECTION D - PACKAGING AND MARKING

## D.1 SUBMISSION OF DELIVERABLES ON FLOPPY DISKS (RACS-D-96-1)

(a) At the request of the Contracting Officer or as directed in the individual work assignments, the Contractor shall submit deliverables on microcomputer floppy disks (3 1/2" X 3 1/2") or electronically and shall be packaged in accordance with standard commercial practice for ADP software. The disks shall be IBM and EPA compatible, high density, double-sided, and shall be labeled to indicate:

- 1) Name of deliverable
- 2) Contractor Name
- 3) Contract Number
- 4) Date written
- 5) Indication of draft or final version
- 6) Work Assignment #

(b) For each deliverable, data shall be separated by category and submitted on the diskettes using the following categories, or as otherwise directed/approved by the Contracting Officer:

DATA CATEGORY	ASCII CONVERTED TO AN ORIGINAL IN
-----	-----
1) Narratives	WordPerfect
2) Spreadsheets	Lotus 1-2-3
3) Data Bases	D-base III Plus
4) PC to PC Communications	CrossTalk
5) Graphics	Autocad Freelance and/or Pagemaker

(c) All data submitted in accordance with this clause shall be in the version of the software applications as directed for use by the Contracting Officer for the above-listed titles (WordPerfect, Lotus, etc.)

## SECTION E - INSPECTION AND ACCEPTANCE

### E.1 NOTICE Listing Contract Clauses Incorporated by Reference

#### NOTICE:

The following solicitation provisions and/or contract clauses pertinent to this section are hereby incorporated by reference:

#### FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

NUMBER	DATE	TITLE
52.246-8	APR 1984	INSPECTION OF RESEARCH AND DEVELOPMENT COST-REIMBURSEMENT ALTERNATE I (APR 1984)

### E.2 CONTRACT CLAUSES INCORPORATED BY REFERENCE

NOTICE: The following solicitation provisions and/or contract clauses pertinent to this section are hereby incorporated by reference:

#### FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

NUMBER	DATE	TITLE
52.246-5	APR 1984	INSPECTION OF SERVICES COST-REIMBURSEMENT (THIS CLAUSE IS ONLY APPLICABLE TO WORK ASSIGNMENTS ISSUED ON A COST-TYPE BASIS)
52.246-4	AUG 1996	INSEPTION OF SERVICES--FIXED-PRICE (THIS CLAUSE IS ONLY APPLICABLE TO WORK ASSIGNMENTS ISSUED ON A FIXED PRICE BASIS)

### E.3 INSPECTION AND ACCEPTANCE (EP 52.246-100) (APR 1984)

(a) The Contracting Officer or the duly authorized representative will perform inspection and acceptance of materials and services to be provided.

(b) For the purposes of this clause, the Work Assignment Manager (WAM) is the authorized representative of the Contracting Officer.

(c) Inspection and acceptance will be performed at:

-The site specified in the Work Assignment (WA)

**SECTION F - DELIVERIES OR PERFORMANCE****F.1 SUSPENSION OF WORK (FAR 52.242-14) (APR 1984)**

(a) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the Government.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

(c) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

**F.2 STOP WORK ORDER (FAR 52.242-15) (AUG 1989)**

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall, at Government expense, immediately comply with its terms and take all reasonable steps to minimize the incurrence of cost allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either --

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government clause of this contract.

(3) e pa  
tion

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery completion schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if -

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

#### F.3 REPORTS OF WORK (EPAAR 1552.210-70) (APR 1984) DEVIATION

The Contractor shall prepare and deliver reports and a technical report abstract for each draft final and final technical report in accordance with Attachment B.

#### F.4 WORKING FILES (EPAAR 1552.210-75) (APR 1984) DEVIATION

The Contractor shall maintain accurate working files on all work documentation including calculations, assumptions, interpretations of regulations, sources of information, and other raw data required in the performance of this contract. The Contractor shall provide the information contained in its working files upon request of the Contracting Officer.

#### F.5 USE OF RECOVERED MATERIALS IN PAPER AND PAPER PRODUCTS (EP 52.210-150) (JUN 1991)

(a) If the Contractor is required under this contract to deliver any of the paper and paper products listed below, all such items delivered shall meet the minimum content standards for recovered materials, postconsumer recovered materials, or waste paper set forth below in paragraph (b).

(1) Recovered materials are defined as waste material and by-products that have been recovered or diverted from solid waste, not including those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(2) Postconsumer recovered materials are defined as waste materials recovered from retail stores, office buildings, homes, and so forth after they passed through their end usage as a consumer item.

(b) Unless otherwise directed by the Contracting Officer, the Contractor shall use double-sided copying to reproduce any progress report, draft report or final report in response to this contract.

**F.7 PERIOD OF PERFORMANCE (EP 52.212-140) (APR 1984)**

The period of performance of this contract shall be from the contract's effective date through 48 months exclusive of all required reports.



**SECTION G - CONTRACT ADMINISTRATION DATA****G.1 PAYMENT OF BASE FEE**

(a) The term "fee" in this clause refers to the base fee under a cost-plus-award-fee type contract.

(b) For the term form segment of the contract, the Government will make provisional fee payments to the prime contractor, as follows:

(I) LOE Hours: based on the percentage of work completed which is the ratio of direct labor hours performed, whether by the prime contractor or its team subcontractors, to the direct labor hours set forth in paragraph (a) of the clause in Section B entitled "LEVEL OF EFFORT - COST-REIMBURSEMENT (TERM FORM SEGMENT)";

(ii) Subpool: 2 % of the subpool subcontract costs, exclusive of any pollution liability insurance costs, incurred during the billing period;

(c) For the completion form segment, the Government will make provisional fee payments in accordance with the criteria established in the completion form work assignment. If no provisional fee payment criteria is set forth in the completion form work assignment, then provisional fee payments will be based on the percentage of work completed as determined by the ratio of incurred costs to total work plan budget.

(d) In no event shall total provisional fee payments exceed the amounts set forth in the ESTIMATED COST, BASE FEE AND AWARD FEE clause of this contract.

(e) For individual work assignments (Term Form and Completion Form), all provisional base fee payments shall be recovered and returned to the Government upon a final performance fee rating of less than satisfactory.

**G.2 SUBCONTRACTING PROGRAM FOR SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS (EP 52.219-105) (APR 1984)**

The subcontracting plan submitted by the Contractor and approved by the Contracting Officer for this requirement is incorporated as Attachment D.

**G.3 SUBCONTRACTING REPORTS--SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS (EP 52.219-120) (OCT 1991)**

The Contractor shall submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Contract Report, in accordance with the instructions on the forms.

Submit copies of these reports to:

Distribution	Addressee
original	Contracting Officer
2 copies	Project Officer Senior Program Manager U.S. EPA Office of Small & Disadvantaged Business Utilization (1230C) 401 M Street, S.W. Washington, D.C. 20460

#### G.4 SUBMISSION OF INVOICES (EPAAR 1552.232-70) (JUN 1996) DEVIATION

In order to be considered properly submitted, an invoice or request for contract financing payment must meet the following requirements in addition to the requirements of FAR 32.905:

(a) Unless otherwise specified in the contract, an invoice or request for contract financing payment shall be submitted as an original and three copies. The contractor shall submit the invoice or request for contract financing payment to the following offices/individuals in the contract: the original and one copy to the Accounting Operations office shown in Block 12 on the cover of the contract; two copies to the Project Officer (the Project Officer may direct one of these copies to a separate address); and one copy to the Contracting Officer.

(b) The Contractor shall prepare its invoice or request for contract financing payment on the prescribed Government forms. Standard Forms Number 1034, Public Voucher for Purchases and Services other than Personal, shall be used by contractors to show the amount claimed for reimbursement. Standard Form 1035, Public Voucher for Purchases and Services other than Personal -Continuation Sheet, shall be used to furnish the necessary supporting detail or additional information required by the Contracting Officer. The Contractor may submit self-designed forms which contain the required information.

(c)(1) The Contractor shall prepare a contract level invoice or request for contract financing payment in accordance with the invoice preparation instructions identified as a separate attachment in Section J of the contract. If contract work is authorized by individual work assignments, the invoice or request for contract financing payment shall also include a summary of the current and cumulative amounts claimed by cost element for each work assignment and for the contract total, as well as any supporting data for each work assignment as identified in the instructions.

(2) The invoice or request for contract financing payment shall include current and cumulative charges by major cost element such as direct labor, overhead, travel, equipment, and other direct costs. For current costs, each major cost element shall include the appropriate supporting schedule identified in the invoice preparation instructions. Cumulative charges represent the net sum of current charges by cost element for the contract period.

(d)(1) The charges for subcontracts shall be further detailed in a supporting schedule showing the major cost elements for each subcontract.

(d)(2) On a case-by-case basis, when needed to verify the reasonableness of subcontractor costs, the Contracting Officer may require that the contractor obtain from the subcontractor cost information in the detail set forth in (c)(2). This information should be obtained through a means which maintains subcontractor confidentiality (for example, via sealed envelopes), if the subcontractor expresses CBI concerns.

(e) Invoices or requests for contract financing payment must clearly indicate the period of performance for which payment is requested. Separate invoices or requests for contract financing payment are required for charges applicable to the basic contract and each option period.

(f)(1) Notwithstanding the provisions of the clause of this contract at FAR 52.216-7, Allowable Cost and Payment, invoices or requests for contract financing payment shall be submitted once per month unless there has been a demonstrated need and Contracting Officer approval for more frequent billings. When submitted on a monthly basis, the period covered by invoices or requests for contractor financing payments shall be the same as the period for monthly progress reports required under this contract.

(2) If the Contracting Officer allows submissions more frequently than monthly, one submittal each month shall have the same ending period of performance as the monthly progress report.

(3) Where cumulative amounts on the monthly progress report differ from the aggregate amounts claimed in the invoice(s) or request(s) for contract financing payments covering the same period, the contractor shall provide a reconciliation of the difference as part of the payment request.

#### G.5 INDIRECT COSTS (EPAAR 1552.242-70) (APR 1984) DEVIATION

(a) In accordance with paragraph (d) of the "Allowable Cost and Payment" clause, the final indirect cost rates applicable to this contract shall be established between the Contractor and the appropriate Government representative (EPA, other Government agency, or auditor), as provided by FAR 42.703(a). EPA's procedures require a Contracting Officer determination of indirect cost rates for its contracts. In those cases where EPA is the cognizant agency (see FAR 42.705-1), the final rate proposal shall be submitted to the cognizant audit activity and to the following:

Environmental Protection Agency  
Chief, Cost and Rate Negotiation Service Center  
Office of Acquisition Management  
(3802R)  
401 M St., S.W.  
Washington, D. C. 20460

The Contractor shall also follow the notification and cost impact procedures prescribed in paragraph (b) below.

Where EPA is not the cognizant agency, the final rate proposal shall be submitted to the above-cited address, to the cognizant audit agency, and to the designated Contracting Officer of the cognizant agency. Upon establishment of the final indirect cost rates, the Contractor shall submit an

executed Certificate of Current Cost or Pricing Data (see FAR 15.804-4) applicable to the data furnished in connection with the final rates to the cognizant audit agency. The final rates shall be contained in a written understanding between the Contractor and the appropriate Government representative. Pursuant to the "Allowable Cost and Payment" clause, the allowable indirect costs under this contract shall be obtained by applying the final agreed upon rate(s) to the appropriate bases.

(b) Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the appropriate Government representative in accordance with FAR 42.704, by means of a separate indirect cost rate agreement or a contract modification subject to adjustment when the final rates are established. The established billing rates are currently as follows:

Cost Center:	Fringe Benefit
Period:	1998
Rate:	31.70%
Base:	Direct Labor

Cost Center:	Overhead
Period:	1998
Rate:	68.80%
Base:	Direct Labor

Cost Center:	G&A
Period:	1998
Rate:	67.40%
Base:	Direct Labor

These billing rates may be prospectively or retroactively revised by mutual agreement, at the request of either the Government or the Contractor, to prevent substantial overpayment or underpayment.

(1) For any retroactive indirect cost rate adjustments (i.e., indirect costs already billed), including final indirect cost rate adjustments, the Contractor shall provide to the Cost Policy and Rate Negotiation Section, with copies to the current EPA Contracting Officers of active contracts, a cost impact statement showing the effect of the indirect cost rate changes for each contract. This statement shall compare the cost billed to the cost the Contractor proposes to bill.

(2) For prospective indirect cost rate adjustments only, the Contractor shall notify the current EPA Contracting Officers of the new proposed rates when it proposes rates to the Cost Policy and Rate Negotiation Section.

(3) For either prospective or retroactive indirect cost rate adjustments, the Contractor shall provide the Cost Policy and Rate Negotiation Section with the names of the current EPA Contracting Officers for the affected contracts.

(c) Notwithstanding the provisions of paragraphs (a) and (b) above, ceilings are hereby established on indirect costs reimbursable under this contract. The Government shall not be obligated to pay the Contractor any additional amount on account of indirect costs in excess of the ceiling rates listed

below:

NONE

The ceiling rates specified above are applicable from the effective date of the contract through the end of the period of performance including any option periods.

**G.6 . CERTIFICATE OF INDIRECT COSTS (EPAAR 1552.242-71) (OCT 1992)**

(a) The contractor shall--

(1) Certify any proposal to establish or modify billing rates or to establish final indirect cost rates;

(2) Use the format in paragraph (b) of this clause to certify; and

(3) Have the certificate signed by an individual of the contractor's organization at a level no lower than a vice president or chief financial officer of the business segment of the contractor that submits the proposal.

(b) Failure by the contractor to submit a signed certificate, as set forth below, shall result in payment of indirect costs at rates unilaterally established by the Government.

**Certificate of Indirect Costs**

This is to certify that to the best of my knowledge and belief:

1. I have reviewed this indirect cost proposal;
2. All costs included in this proposal (identify proposal and date) to establish billing or final indirect cost rates for (identify period covered by rate) are allowable in accordance with the requirements of contracts to which they apply and with the cost principles of the Federal Acquisition Regulation applicable to those contracts;
3. This proposal does not include any costs which are unallowable under applicable cost principles of the FAR; and
4. All costs included in this proposal are properly allocable to Government contracts on the basis of a beneficial or causal relationship between the expenses incurred and the contracts to which they are allocated in accordance with applicable acquisition regulations.

Providing false information in connection with any certified indirect cost proposal may lead to substantial criminal penalties, civil liabilities or the imposition of administrative sanctions. Relevant statutes include, among others, 18 U.S.C. 286 (Conspiracy to Defraud), 18 U.S.C. 287 (False Claims), 18 U.S.C. 641 (Theft), 18 U.S.C. 1001 (False Statements), 18 U.S.C. 1343 (Wire Fraud), 31 U.S.C. 3729 (Civil False Claims), and 31 U.S.C. 3801 (Program Fraud). Debarment or suspension may be required under FAR Subpart 9.4 for submittal of a false certificate of indirect costs.

FIRM: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

NAME OF OFFICIAL: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE OF EXECUTION: \_\_\_\_\_

**G.7 CONTRACT ADMINISTRATION REPRESENTATIVES (EP 52.242-100) (AUG 1984)**

Project Officer(s) for this contract:

Project Officers:

Margaret Morkowski (415) 744-2154  
Barbara Lee (415) 744-2160  
Linda Ma (415) 744-2166

Contract Specialists responsible for administering this contract:

Ivon Collins (415) 744-1617  
Jeri Simmons (415) 744-1616

Administrative Contracting Officer:

David Katzki (415) 744-1615

**G.8 ANNUAL ALLOCATION OF NON-SITE COSTS (EP 52.242-310) (OCT 1991)**

(a) The contractor shall submit an allocation report annually on a Federal fiscal year (FY) basis. The purpose of this report is to allocate all payments made by EPA to the contractor for non-site-specific activities to the sites worked on by the contractor during the FY. Examples of non-site-specific activities include program management, contract fees (base, fixed, and award), and other tasks given to the contractor for non-site-specific work.

(b) Within 90 days after the end of each FY, EPA will provide the contractor the total amount of all invoices for the annual allocation period. The contractor shall submit two draft copies of the Annual Allocation Report to EPA within 60 days after receipt of the invoice amounts. The paragraph below titled, "Annual Allocation Report", lists the required submissions for the Annual Allocation Report. Attachment E to the contract, titled, "Instructions for Performing the Annual Allocation of Non-Site-Specific Costs" provides a detailed explanation of each schedule type and steps for completing each schedule.

(c) The Program Cost Branch of the Financial Management Division (FMD) will review the draft report and notify the contractor in writing of any corrections required for the final report. Two copies of the final report incorporating all of the necessary corrections are due 30 days after receipt of this notice. The final report shall also include a signed statement certifying that the data provided to EPA is supported by the contractor's

accounting records. NOTE: These allocations represent changes to EPA's accounting system. No changes should be made to the contractor's accounting system.

(d) In addition to the two copies of the final reports, the contractor shall also submit the Summary of Allocation report on a 3 1/2" DOS computer disk in a Lotus 1-2-3 or ASCII format. The reports shall be sent to:

Chief, Superfund Accounting Branch  
Environmental Protection Agency  
Financial Management Division (3303F)  
401 M St. S.W.  
Washington, D.C. 20460

(e) When the contract performance period ends at other than the end of the FY, EPA will provide the amount to be allocated 90 days after submission of the last invoice following contract expiration. The time requirements for submission of draft and final reports noted in the paragraphs above will apply.

(f) If the contractor is submitting Annual Allocation Reports on costs incurred during FY 1991 and earlier, the contractor may combine each FY's report into one report. Approval must be granted by the Chief, Superfund Accounting Branch, FMD before the reports can be combined.

#### Allocation Methodology

##### Initial Steps:

Before beginning the allocation process, the contractor must perform four tasks:

- 1) Reconcile the paid amounts provided by EPA with contractor records,
- 2) Identify costs charged to sites with SSIDs and without SSIDs,
- 3) Redistribute costs for sites which initially did not have SSIDs, but which were subsequently assigned an EPA SSID, and
- 4) Identify which of the non-site activity costs should be allocated to sites:

The contractor shall delineate the amount of non-site- specific costs into the following non-site categories:

Program Management - (National & Regional, if applicable) - Payments made to the contractor for the specific management and administration of the contract as a whole. This includes contract fees except for fees applicable to individual sites.

Site Support Non-Site Activities - payments for activities which relate to, support, and/or benefit the sites worked on by the contractor.

Program Wide Non-Site Activities - payments for activities which support the overall Superfund program beyond the sites worked on under this contract; they are global in nature and purpose. These costs will not be allocated to sites in the annual allocation process.

Capital Equipment - equipment with an individual cost over \$5,000.00 and a useful life of greater than one year.

Start-up Costs - costs incurred generally in the first year and associated with efforts benefiting the entire contract term, e.g., quality assurance plans.

(g) The contractor shall allocate the non-site activity costs to sites, program wide non-site costs, and other appropriations using an allocation method that reflects the causal/beneficial relationship of the non-site costs to site costs. The preferred allocation method is a total cost base. However, with the approval of the Chief, Superfund Accounting Branch, FMD, the contractor may use an alternate methodology.

In addition, special allocations may be required as follows:

- All equipment with a unit value of \$5,000.00 or greater and a useful life of greater than one year shall be depreciated over its useful life and allocated to sites. The allocation of amortized equipment costs should reflect equipment usage on the sites. The preferred depreciation procedure is either a straight-line or actual usage basis. A depreciation schedule shall be maintained and submitted to EPA at contract expiration.
- Start-up costs, if applicable, shall be amortized over the life of the contract.
- Payments made for costs incurred in previous fiscal years, if material, shall be allocated in a separate report. If the contractor is unsure whether a paid amount is material, the contractor should contact the Chief, Superfund Accounting Branch, FMD.

#### Annual Allocation Report

##### Required:

- Summary of Allocation
- Master Allocation Schedule
- Statement of Allocation Methodology
- Listing of all invoices paid during the Federal fiscal year (with invoice numbers and amounts)
- Certification of Contractor Records - (final report only)

##### Required if applicable:



- Schedule of Start-up Costs
- Schedule of Capital Equipment Depreciation
- Schedule of Non-Site Activities

(h) The contractor should refer to "Instructions for Performing the Annual Allocation of Non-Site-Specific Costs" for a detailed explanation and illustration of the allocation process and methodology. Questions regarding any Annual Allocation requirements should be referred to the Chief, Superfund Accounting Branch, FMD at (202) 260-9268.

#### **G.9 SUBCONTRACT CONSENT (EP 52.244-100) (APR 1984)**

(a) The Contractor shall submit the information required by the "Subcontracts," clause to the Contracting Officer. The Contracting Officer will provide written notice to the Contractor of his decision.

(b) Consent is given to issue the following team subcontract subject to final physical subcontract document review by the ACO:

<u>SUBCONTRACTOR</u>	<u>VALUE</u>
URS GREINER INC.	\$85,457,501

(c) The following fixed-rate cost-reimbursable-ODC(travel and equipment)team subcontract is subject to final physical subcontract document review and consent by the PCO:

E2 CONSULTING INC.	\$5,834,952
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No activity can commence by E2 Consulting Inc. prior to this PCO approval.

#### **G.10 DECONTAMINATION OF GOVERNMENT PROPERTY (EPAAR 1552.245-70) (APR 1984)**

In addition to the requirements of the "Government Property" clause, the Contractor shall certify in writing that any Government-furnished property or Contractor-acquired property is returned to the Government free from contamination by any hazardous or toxic substances.

#### **G.11 GOVERNMENT-FURNISHED DATA (EPAAR 1552.245-71) (APR 1984)**

(a) The Government shall deliver to the Contractor the Government-furnished data described in the contract. If the data, suitable for its intended use, is not delivered to the Contractor, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the "Changes" clause when:

(1) The Contractor submits a timely written request for an equitable adjustment; and

(2) The facts warrant an equitable adjustment.

(b) Title to Government-furnished data shall remain in the Government.

(c) The Contractor shall use the Government-furnished data only in connection with this contract.

(d) The data will be furnished to the Contractor as specified in the Work Assignment.

#### **G.12 GOVERNMENT PROPERTY (EP 52.245-100) (APR 1998) DEVIATION**

(a) The contractor shall not fabricate or acquire, on behalf of the Government, either directly or indirectly through a subcontract, any item of property without written approval from the Contracting Officer.

(b) In accordance with paragraph (a) above, the contractor is authorized to acquire and/or fabricate the equipment listed below for use in the performance of this contract. The equipment is subject to the provisions of the "Government Property" clause.

NONE

(c) The Government will provide the following item(s) of Government property to the contractor for use in the performance of this contract. This property shall be used and maintained by the contractor in accordance with the provisions of the "Government Property" clause.

NONE

(d) The "EPA Contract Property Administration Requirements," provided below, apply to this contract.

#### **U.S. Environmental Protection Agency PROPERTY ADMINISTRATION REQUIREMENTS (PAR)**

**1. PURPOSE.** This document sets forth the requirements for Environmental Protection Agency (EPA) contractors in the performance of their Government property management responsibilities under contracts with EPA. These requirements supplement those contained in the Government property clause(s) in this contract, and Part 45 of the Federal Acquisition Regulation (FAR).

**2. DELEGATION OF CONTRACT PROPERTY ADMINISTRATION.** EPA has delegated much of its contract property management oversight to the Defense Contract Management Command (DCMC). Shortly after award of a contract, the EPA contracting officer (CO) delegates the functions of property administration and plant clearance (disposal) for the contract to DCMC. Upon acceptance of that delegation, DCMC will provide notification to the contractor, identifying the assigned property administrator (PA) and plant clearance officer (PLCO). If the contract is not delegated to DCMC for administration, any reference to PA and PLCO throughout this document shall be construed to mean CO. The DCMC PA is available to the contractor for assistance in all matters of property administration. Notwithstanding the delegation, as necessary, the contractor may contact their EPA CO. In the event of disagreement between the contractor and the DCMC PA, the contractor should seek resolution from the CO.

Unless otherwise directed in the contract, or this document, all originals of written information or reports, except direct correspondence between the contractor and the DCMC PA, relative to Government property, should be forwarded to the administrative CO assigned to this contract.

### 3. REQUESTS FOR GOVERNMENT PROPERTY.

- a. In accordance with FAR 45.102, the contractor shall furnish all property required for performing Government contracts. If a contractor believes that Government facilities are required for performance of the contract, the contractor shall submit a written request to the CO. At a minimum the request shall contain the following elements:
  1. Contract number and Work Assignment number for which the facilities are required.
  2. An item(s) description, quantity and estimated cost.
  3. Certification that no like contractor facilities exist which could be utilized.
  4. A detailed description of the task-related purpose of the facilities.
  5. Explanation of negative impact if facilities are not provided by the Government.
  6. If applicable, recommend the exception under FAR 45.302-1(a) or EPA's class deviation (available upon request), and provide any other information which would support the furnishing of facilities, including contractor-acquired property (CAP).
  7. Except when the request is for material, a lease versus purchase analysis shall be furnished with the request to acquire property on behalf of the Government.

The contractor may not proceed with acquisition on behalf of the Government until receipt of written authorization from the EPA CO.

4. **TRANSFER OF GOVERNMENT PROPERTY.** When the contractor receives Government-furnished property (GFP), the contractor should receive, from the transferor, (either EPA or another contractor) all of the applicable data elements needed to maintain the required records. If this information is not provided at the time of receipt of the property, the contractor shall request it from the EPA CO. The CO will attempt to obtain the data from the previous property holder, or, if data does not exist, will assist the current property holder in estimating the elements. Prior to signing an acceptance document for the property, the receiving contractor should perform a complete inventory of the property. Responsibility, as well as accountability, passes with the signed acceptance.

When, at the written direction of the EPA CO, the contractor transfers GFP to another contractor, or another Agency, the contractor shall provide the applicable data elements (Attachment 1 of this clause). Upon return of the

property to EPA, the same data must be provided, by the contractor, to the EPA CO.

**5. RECORDS OF GOVERNMENT PROPERTY.**

- a. In accordance with FAR 45.505 and 45.505-1, the contractor shall establish and maintain adequate property records for all Government property, regardless of value, including property provided to and in the possession of a subcontractor. Material (supplies) provided by the Government or acquired by the contractor and billed as a direct charge to the Government is Government property and records must be established as such.
- b. The contractor shall establish and maintain the official Government property record. (If the contract contains the FAR Clause 52.245-1, the Government will maintain the official Government property records.) Such records shall contain the applicable data elements (Attachment 1 of this clause) for all items of Government property regardless of cost.
- c. The Contractor shall identify all Superfund property and designate it as such both on the item and on the official Government property record. If it is not practicable to tag the item, the contractor shall write the ID number on a tag, card or other entity that may be kept with the item or in a file.
- d. Support documentation used for posting entries to the property record shall provide complete, current and auditable data. Entries shall be posted to the record in a timely manner following an action.
- e. For Government vehicles, in addition to the data elements required by EPA, the contractor shall also comply with the General Services Administration (GSA) and Department of Energy (DOE) record and report requirements supplied with all EPA provided motor vehicles. If the above requirements were not provided with the vehicle, the contractor shall notify the EPA CO.
- f. When Government property is disclosed to be in the possession or control of the contractor but not provided under any contract, the contractor shall record and report the property in accordance with FAR 45.502(f) and (h).

**6. INVENTORIES OF GOVERNMENT PROPERTY.** The Contractor shall conduct a complete physical inventory of EPA property at least once per year, unless otherwise directed by the PA. Reconciliation shall be completed within 30 calendar days of inventory completion. The contractor shall report the results of the inventory, including any discrepancies, to the DCMC PA upon completion of the reconciliation. The contractor's records shall indicate the completion date of the inventory.

See Section 9 herein, Contract Closeout, for information on final inventories.

**7. REPORTS OF GOVERNMENT PROPERTY.** In accordance with FAR 45.505-14, EPA requires an annual summary report, for each contract, by contract number, of

Government property in the contractor's possession as of September 30 each year.

- a. For each classification listed in FAR 45.505-14(a), except material, the contractor shall provide the total acquisition cost and total quantity. If there are zero items in a classification, or if there is an ending balance of zero, the classification must be listed with zeros in the quantity and acquisition cost columns.
- b. For material, the contractor shall provide the total acquisition cost only.
- c. Property classified as facilities, special tooling, special test equipment, and agency peculiar must be reported on two separate lines. The first line shall include the total acquisition cost and quantity of all items or systems with a unit acquisition cost of \$25,000 or more. The second line shall include the total acquisition cost and quantity of all items with a unit acquisition cost of less than \$25,000.
- d. For items comprising a system, which is defined as "a group of interacting items functioning as a complex whole," the contractor may maintain the record as a system noting all components of the system under the main component or maintain individual records for each item. However, for the annual report of Government property the components must be reported as a **system** with one total dollar amount for the system, if that system total is \$25,000 or more.
- e. The reports are to be **received** at EPA and DCMC no later than October 31 of each year.
- f. Distribution shall be as follows:
 

Original to:	EPA CO
1 copy:	DCMC PA
- g. EPA Contractors are required to comply with GSA's and DOE's special reporting requirements for motor vehicles. A statement of these requirements will be provided by the EPA Facility Management and Services Division (FMSD) concurrent with receipt of each vehicle.
- h. The contractor shall provide detailed reports on an as-needed basis, as may be requested by the CO or the PA.

**8. DISPOSITION OF GOVERNMENT PROPERTY.** The disposition process is composed of three distinct phases: identification of excess property, reporting of excess property, and final disposition.

- a. Identification of Excess Property. The disposition process begins with the **contractor** identifying Government property that is excess to its contract. **Effective contractor property control systems provide for disclosing excesses as they occur.** Once inactive Government property has been determined to be excess to the contract to which it is accountable, it must be screened

against the contractor's other EPA contracts for further use. If the property may be reutilized, the contractor shall notify the CO, in writing. Government property will be transferred to other contracts only when the COs on both the current contract and the receiving contract authorize such a transfer in writing.

- b. Reporting Excess Government Property. Excess Government property shall be reported in accordance with FAR Subpart 45.6. Inventory schedules A-E (SF Forms 1426 - 1434) provide the format for reporting of excess Government property. Instructions for completing the forms are located at FAR 45.606-5 and samples may be found in FAR 53.301-1426 thru 1434. Inventory schedules shall be forwarded to the DCMC PLCO with a copy to the EPA CO. The cover letter, which accompanies the inventory schedules, must include the EPA CO's name, address and telephone number. Inventory schedules must also contain a notification if the property is Superfund property. If the property is Superfund property, the contractor must also prominently include the following language on the inventory schedule: **"NOTE TO PLCO: Reimbursement to the EPA Superfund is required."** When requested, by the PLCO or the CO, the contractor will provide the fair market value for those items requested.

c. Disposition Instructions.

1. If directed in writing by the EPA CO, the contractor will retain all or part of the excess Government property under the current contract for possible future requirements. The contractor shall request, from the PLCO, withdrawal from the inventory schedule of those items to be retained.
2. If directed in writing by the EPA CO, the contractor shall transfer the property to another EPA contractor. The contractor will transfer the property by shipping it in accordance with the instructions provided by the CO. The contractor shall request, from the PLCO, withdrawal from the inventory schedule of those items to be transferred. Further, the contractor shall notify the CO when the transfer is complete.
3. If directed in writing by the EPA CO, the contractor shall transfer the property to EPA. The contractor shall ship/deliver the property in accordance with the instructions provided by the CO. The contractor will request, from the PLCO, withdrawal from the inventory schedule of those items to be transferred to EPA. Further, the contractor shall notify the CO when the transfer is complete.
4. The contractor will ship the property elsewhere if directed, in writing, by the PLCO.
5. The PLCO will either conduct the sale or instruct the contractor to conduct a sale of surplus property. The contractor will allow prospective bidders access to property offered for

sale. Reimbursement to EPA Superfund is required.

6. Property abandoned by the PLCO on the contractor's site must be disposed of in a manner that does not endanger the health and safety of the public.

7. To effect transfer of accountability, the contractor shall provide the recipient of the property with the applicable data elements set forth in Attachment 1 of this clause. The contractor shall also obtain either a signed receipt from the recipient, or proof of shipment. The contractor shall update the official Government property record to indicate the disposition of the item and to close the record.

9. **CONTRACT CLOSEOUT.** The contractor shall complete a physical inventory of all Government property at contract completion and the results, including any discrepancies, shall be reported to the DCMC PA. In the case of a terminated contract, the contractor shall comply with the inventory requirements set forth in the applicable termination clause. The results of the inventory, as well as a detailed inventory listing, must be forwarded to the CO. For terminated contracts, the contractor will conduct and report the inventory results as directed by the CO.

However, in order to expedite the disposal process, contractors may be required to, or may elect to submit to the CO, an inventory schedule for disposal purposes up to six (6) months prior to contract completion. If such an inventory schedule is prepared, the contractor must indicate the earliest date that each item may be disposed.

The contractor shall update all property records to show disposal action. The contractor shall notify the DCMC PA, in writing, when all work has been completed under the contract and all Government property accountable to the contract has been disposed.

**REQUIRED DATA ELEMENTS.** Where applicable (all elements are not applicable to material) the contractor is required to maintain, at a minimum, the information related to the following data elements for EPA Government property:

Contractor Identification/Tag Number  
Description  
Manufacturer  
Model  
Serial Number  
Acquisition Date  
Date received  
Acquisition Cost \*  
Acquisition Document Number  
Location  
Contract Number  
Account Number (if supplied)  
Superfund (Yes/No)  
Inventory Performance Date  
Disposition Date

\* Acquisition cost shall include the price of the item plus all taxes, transportation and installation charges allocable to that item.

NOTE: For items comprising a system which is defined as, "a group of interacting items functioning as a complex whole," the contractor may maintain the record as a system noting all components of the system under the main component or maintain individual records for each item. However, for the Annual Report of Government Property the components must be reported as a **system** with one total dollar amount for the system, if that system total is \$25,000 or more.

**G.13 DESIGNATION OF PROPERTY ADMINISTRATOR (EP 52.245-140) (SEP 1994)**

The contract property administrator

Defense Contract Management Command (DCMC)

Grace Oletski  
DCMC DENVER  
Orchard Plaza II  
5975 Greenwood Plaza Blvd  
Englewood, CO. 80111-4175

is the Contracting Officer's designated representative on property matters. The Contractor shall furnish all required information on property to the property administrator.



## SECTION H - SPECIAL CONTRACT REQUIREMENTS

### H.1 PRINTING (EPAAR 1552.208-70) (DEC 1993) DEVIATION

#### (a) Definitions.

"Printing" is the process of composition, platemaking, presswork, binding, and microform; or the end items produced by such processes and equipment.

"Composition" applies to the setting of type by hot-metal casting, photo typesetting, or electronic character generating devices for the purpose of producing camera copy, negatives, a plate or image to be used in the production of printing or microform.

"Camera copy" (or "camera-ready copy") is a final document suitable for printing/duplication.

"Desktop Publishing" is a method of composition using computers with the final output or generation of camera copy done by a laser printer. This is not considered "printing." However, if the output from desktop publishing is being sent to a typesetting device (i.e., Linotronic) with camera copy being produced in either paper or negative format, these services are considered "printing".

"Microform" is any product produced in a miniaturized image format, for mass or general distribution and as a substitute for conventionally printed material. Microform services are classified as printing services and includes microfiche and microfilm. The contractor may make up to two sets of microform files for archival purposes at the end of the contract period of performance.

"Duplication" means the making of one-color (black) copies on photocopy machines employing electrostatic, thermal, or other processes without using an intermediary such as a negative or plate.

"Requirement" means an individual photocopying task. (There may be multiple requirements under a Work Assignment or Delivery Order. Each requirement would be subject to the photocopying limitation of 5,000 copies of one page or 25,000 copies of multiple pages in the aggregate per requirement.)

#### (b) Prohibition.

The Contractor shall not engage in, nor subcontract for, any printing or multi-color duplication in connection with the performance of work under this contract. Duplication of more than 5,000 copies of one page or more than 25,000 copies of multiple pages in the aggregate per requirement constitutes printing.

#### (c) Affirmative Requirements.

(1) Unless otherwise directed by the Contracting Officer, the Contractor shall use double-sided copying to produce any progress report, draft report or final report.

(2) Unless otherwise directed by the Contracting Officer, the Contractor shall use recycled paper for reports delivered to the Agency which meet the minimum content standards for paper and paper products as set forth in EPA Procurement Guidelines (40 CFR 250, June 22, 1988).

(d) Permitted Contractor Activities.

(1) The prohibitions contained in paragraph (b) do not preclude writing, editing, or preparing manuscript copy, or preparing related illustrative material to a final document (camera-ready copy) using desktop publishing.

(2) The Contractor may perform a requirement involving the duplication of less than 5,000 copies of only one page, or less than 25,000 copies of multiple pages in the aggregate using one color (black), such pages not exceeding the maximum image size of 10 3/4 by 14 1/4 inches. Duplication services below these thresholds are not considered printing. If performance of the contract will require duplication in excess of these limits, contractors must immediately notify the Contracting Officer in writing. EPA may then seek a waiver from the Joint Committee on Printing, U.S. Congress.

(e) Violations.

The Contractor may not engage in, nor subcontract for, any printing in connection with the performance of work under the contract. The cost of any printing services in violation of this clause will be disallowed, or not accepted by the Government.

(f) Flowdown Provision.

The Contractor shall include in each subcontract which may involve a requirement for any printing/duplicating/copying a provision substantially the same as this clause.

## H.2 FIXED PRICE WORK ASSIGNMENTS

(a) The Contractor and the Contracting Officer may mutually agree that the Contractor shall perform certain work assignments (WAs) under this contract on a Fixed Price Incentive Firm Target basis or a Firm Fixed Price basis, if appropriate. Collectively, these two types of fixed price WAs are referred to as FPWA. These FPWAs shall be charged to the contract as a Completion Form WA.

(b) Each such FPWA will be negotiated between the Contractor and the Contracting Officer. Each FPWA shall include a total price inclusive of any amount for profit (fixed price incentive firm target basis work assignments will include the ceiling price and target cost and profit as required in FAR 52.216-16 included in each FPWA). Each FPWA shall contain specific performance measures and a delivery schedule. Prices, performance measures, and delivery schedules may be specified at the task level.

(c) Each fixed price incentive firm target type of FPWA shall contain a target cost, a target profit, a ceiling price (but not a profit ceiling or floor), and a profit adjustment formula. These elements are all negotiated at the outset of the WA. The price ceiling is the maximum that may be paid to the contractor, except for any adjustment under other contract clauses and the

final price is subject to the price ceiling. When the contractor completes performance of this type of FPWA, the parties negotiate the final cost, and the final price is established by applying the profit adjustment formula. When the final negotiated cost is less than the target cost, application of the formula results in a final profit greater than the target profit; conversely, when final negotiated cost is more than target cost, application of the formula results in a final profit less than the target profit, or even a net loss. If the final negotiated cost exceeds the price ceiling, the contractor shall absorb the difference as a loss. The threshold and incentive values required for insertion into FAR clause 52.216-16 Alt I, INCENTIVE PRICE REVISION - FIRM TARGET, incorporated into this contract in Section I, will be stipulated in each individual incentive firm target type of FPWA.

(d) The Contractor shall not be required to report actual costs by individual cost elements during the performance of FPWA's or in invoices submitted therefore. Invoices may only specify the fixed price for firm fixed price FPWA's or the target price (target cost plus target profit) for a fixed price incentive firm target FPWA (or each separately priced task). The invoicing schedule shall be detailed within each FPWA and no progress payments will be allowed. Contractors shall submit invoices upon the completion of the FPWA or upon the completion of separately priced tasks. The Contractor shall satisfactorily perform all of the work required under the FPWA within the total fixed price of the firm fixed price FPWA and within the parameters defined within FAR 52.216-16 included in each FPWA for fixed price incentive firm FPWAs. Performance which does not meet the acceptance criteria specified in each FPWA or separately priced task will result in no payment to the Contractor for the entire FPWA or separately priced task unless and until the Contractor performs any necessary rework required to meet the original acceptance criteria at no change to the firm fixed price or ceiling price for firm fixed price FPWA's and fixed price incentive firm target FPWA's respectively. When the defects in services cannot be corrected by reperformance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the work assignment price to reflect the reduced value of the services.

(e) Section I clauses that are applicable to FPWA are so indicated in Section I. Wherever terminology refers to "contract" in FAR clause 52.216-16 Alt I, INCENTIVE PRICE REVISION - FIRM TARGET it shall be construed to mean "Fixed Price Incentive Firm Target Work Assignment" as appropriate.

(f) Work assignments issued hereunder shall comply with the following:

(1) As mutually agreed by work assignment, the contractor shall perform work under the fixed price portion of the completion segment of the contract as specified in written work assignments issued by the Contracting Officer and designated as "Fixed Price Completion Form" work assignments. The Fixed Price Completion Form work assignment will describe the scope of work by specifying an end product or products. Work assignments issued under this segment will require the contractor to complete and deliver the specified end product(s) within the negotiated price.

(2) Each work assignment will include (1) a numerical designation, (2) the period of performance and schedule of deliverables and end products, (3) the scope of work for the work

assignment, (4) expenditure limit, and (5) the name and phone number for the assigned Work Assignment Manager (WAM). The contractor shall not exceed the expenditure limits and target costs for a work assignment without the express written approval of the Contracting Officer. The Government shall not reimburse the contractor for costs incurred in excess of the expenditure limit and the Contractor is not obligated to continue performance of a work assignment or otherwise to incur costs in excess of the expenditure limit unless and until the Contracting Officer shall have notified the Contractor in writing that such expenditure limit has been increased and shall have specified in such notice a revised amount. Once a fixed price for a work assignment is established, there will be no expenditure limit applicable to that work assignment.

(3) The Contractor shall acknowledge receipt of each work assignment issued under this section of the contract by returning a signed copy of the work assignment to the Contracting Officer within five (5) working days after its receipt. EPA may utilize electronic systems to transmit formal documents (e.g., work assignments) to the contractor. If these electronic systems are utilized on official contract documents, the contractor agrees to recognize these electronic signatures as official signatures on these documents for both EPA and/or contractor representatives.

(4) The Contractor may start work, as specified in the work assignment form, immediately upon receipt of the work assignment while concurrently preparing a detailed work plan for performance of work under the work assignment, and may work up to the expenditure limit in the work assignment. The work plan shall include a detailed description of the technical work to be performed (by task) and a comprehensive, independent cost breakdown, in accordance with the elements specified in FAR 15.804-6, Table 15-2, Item 8B, by element of cost, by task, and totals. The workplan shall be submitted thirty (30) calendar days after the scoping meeting in the number of copies and to the recipients designated in the work assignment or by technical direction.

(5) At a time and place specified by the Contracting Officer, the parties will negotiate the fixed price (either firm fixed price or FPI arrangement) for the work assignment. Upon successful completion of negotiations, the Contracting Officer will provide written confirmation of the fixed price for the work assignment. If the contractor has not received approval of a workplan within 75 calendar days of the scoping meeting, the contractor shall stop all work on that work assignment and notify the Contracting Officer, Project Officer, and Work Assignment Manager of that fact in writing. Subsequent to this notice, no work shall be performed without the written authorization of the Contracting Officer.

(6) In the event that the Contracting Officer formally disapproves the work plan, all work under that work assignment shall immediately cease until the problem causing the disapproval is resolved and written approval to proceed is received from the

Contracting Officer.

(7) All effort performed under work assignments issued on a fixed price basis under the Completion Form segment of the contract shall be reported separately from the Term Form segment of the contract and from work assignments issued on a cost-type basis under the Completion Form segment of the contract.

(h) Completion ceilings for completion form work assignments issued in the base period will not be affected by exercising the option to extend the contract term.

(i) Work assignments shall not allow for any change to the terms or conditions of the contract. Where any language in the work assignment may suggest a change to the terms or conditions, the contractor shall immediately notify the Contracting Officer.

(j) Within 5 business days of receipt of the work assignment or similar tasking document, the Contractor shall provide a conflict of interest certification. Where work assignments or similar tasking documents are issued under this contract for work on or directly related to a site, the Contractor is only required to provide a conflict of interest certification for the first work assignment issued for that site. For all subsequent work on that site under this contract, the Contractor has a continuing obligation to search and report any actual or potential conflicts of interest, but no additional conflict of interest certifications are required.

(1) Before submitting the conflict of interest (COI) certification, the contractor shall search its records accumulated, at a minimum, over the past three years immediately prior to the receipt of the work assignment or similar tasking document. In the COI certification, the Contractor must certify to the best of the Contractor's knowledge and belief, that all actual or potential organizational conflicts of interest have been reported to the Contracting Officer or that to the best of the Contractor's knowledge and belief, no actual or potential organizational conflicts of interest exist. In addition, the Contractor must certify that its personnel who perform work under this work assignment or relating to this work assignment have been informed of their obligation to report personal and organizational conflicts of interest to the Contractor. The certification shall also include a statement that the Contractor recognizes its continuing obligation to identify and report any actual or potential conflicts of interest arising during performance of this work assignment or other work related to this site.

### **H.3 ORGANIZATIONAL CONFLICTS OF INTEREST (EPAAR 1552.209-71) (MAY 1994) ALTERNATE I (MAY 1994)**

(a) The Contractor warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as defined in FAR Subpart 9.5, or that the Contractor has disclosed all such relevant information.

(b) Prior to commencement of any work, the Contractor agrees to notify the Contracting Officer immediately that, to the best of its knowledge and belief, no actual or potential conflict of interest exists or to identify to the

Contracting Officer any actual or potential conflict of interest the firm may have. In emergency situations, however, work may begin but notification shall be made within five (5) working days.

(c) The Contractor agrees that if an actual or potential organizational conflict of interest is identified during performance, the Contractor will immediately make a full disclosure in writing to the Contracting Officer. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Contracting Officer, to avoid, mitigate, or neutralize the actual or potential conflict of interest. The Contractor shall continue performance until notified by the Contracting Officer of any contrary action to be taken.

(d) Remedies - The EPA may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Contractor was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose it or misrepresented relevant information to the Contracting Officer, the Government may terminate the contract for default, debar the Contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.

(e) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder provisions which shall conform substantially to the language of this clause, including this paragraph, unless otherwise authorized by the Contracting Officer.

#### **H.4 NOTIFICATION OF CONFLICTS OF INTEREST REGARDING PERSONNEL (EPAAR 1552.209-73) (MAY 1994)**

(a) In addition to the requirements of the contract clause entitled "Organizational Conflicts of Interest," the following provisions with regard to employee personnel performing under this contract shall apply until the earlier of the following two dates: the termination date of the affected employee(s) or the expiration date of the contract.

(b) The Contractor agrees to notify immediately the EPA Project Officer and the Contracting Officer of (1) any actual or potential personal conflict of interest with regard to any of its employees working on or having access to information regarding this contract, or (2) any such conflicts concerning subcontractor employees or consultants working on or having access to information regarding this contract, when such conflicts have been reported to the Contractor. A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair the objectivity of the employee, subcontractor employee, or consultant in performing the contract work.

(c) The Contractor agrees to notify each Project Officer and Contracting Officer prior to incurring costs for that employee's work when an employee may have a personal conflict of interest. In the event that the personal conflict of interest does not become known until after performance on the contract begins, the Contractor shall immediately notify the Contracting Officer of the personal conflict of interest. The Contractor shall continue performance of this contract until notified by the Contracting Officer of the appropriate action to be taken.

(d) The Contractor agrees to insert in any subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph (d), unless otherwise authorized by the Contracting Officer.

**H.5 LIMITATION OF FUTURE CONTRACTING (EPAAR 1552.209-74) (MAR 1997)  
ALTERNATE I (MAR 1997)**

(a) The parties to this contract agree that the Contractor will be restricted in its future contracting in the manner described below. Except as specifically provided in this clause, the Contractor shall be free to compete for contracts on an equal basis with other companies.

(b) If the Contractor, under the terms of this contract, or through the performance of work pursuant to this contract, is required to develop specifications or statements of work and such specifications or statements of work are incorporated into an EPA solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime Contractor or subcontractor under an ensuing EPA contract.

(c) Unless prior written approval is obtained from the cognizant EPA Contracting Officer, the Contractor, during the life of the delivery order or tasking document and for a period of five (5) years after the completion of the delivery order or tasking document, agrees not to enter into a contract with or to represent any party, other than EPA, with respect to: (1) any work relating to CERCLA activities which pertain to a site where the Contractor previously performed work for EPA under this contract; or (2) any work that may jeopardize CERCLA enforcement actions which pertain to a site where the Contractor previously performed work for the EPA under this contract.

(d) During the life of this contract, including any options, the Contractor agrees that unless otherwise authorized by the Contracting Officer:

(1) It will not provide any Technical Assistance Team (TAT) type activities (e.g., TAT contracts) to EPA within the Contractor's Time Critical Rapid Response (TCRR) assigned geographical area(s), either as a prime contractor, subcontractor, or consultant.

(2) It will not provide any Technical Assistance Team (TAT) type activities (e.g., TAT contracts) to EPA as a prime contractor, subcontractor or consultant at a site where it has performed or plans to perform TCRR work.

(3) It will be ineligible for award of TAT type activities contracts for sites within its respective TCRR assigned geographical area(s) which result from a CERCLA administrative order, a CERCLA or RCRA consent decree or a court order.

(e) The Contractor and any subcontractors, during the life of this contract, shall be ineligible to enter into an EPA contract or a subcontract under an EPA contract, which supports EPA's performance of Superfund Headquarters policy work including support for the analysis and development of regulations, policies, or guidance that govern, affect, or relate to the conduct of response action activities, unless otherwise authorized by the Contracting Officer. Examples of such contracts include, but are not limited to Superfund

Management and Analytical support contracts, and Superfund Technical and Analytical support contracts.

(f) The Contractor agrees in advance that if any bids/proposals are submitted for any work that would require written approval of the Contracting Officer prior to entering into a contract subject to the restrictions of this clause, then the bids/proposals are submitted at the Contractor's own risk. Therefore, no claim shall be made against the Government to recover bid/proposal costs as a direct cost whether the request for authorization to enter into the contract is denied or approved.

(g) To the extent that the work under this contract requires access to proprietary or confidential business or financial data of other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure.

(h) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for nondiscretionary technical or engineering services, including treatability studies, well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph (g), unless otherwise authorized by the Contracting Officer. The Contractor may request in writing that the Contracting Officer exempt from this clause a particular subcontract or consultant agreement for nondiscretionary technical or engineering services not specifically listed above, including laboratory analysis. The Contracting Officer will review and evaluate each request on a case-by-case basis before approving or disapproving the request.

(i) If the Contractor seeks an expedited decision regarding its initial future contracting request, the Contractor may submit its request to both the Contracting Officer and the next administrative level within the Contracting Officer's organization.

(j) A review process available to the Contractor when an adverse determination is received shall consist of a request for reconsideration to the Contracting Officer or a request for review submitted to the next administrative level within the Contracting Officer's organization. An adverse determination resulting from a request for reconsideration by the Contracting Officer will not preclude the Contractor from requesting a review by the next administrative level. Either a request for review or a request for reconsideration must be submitted to the appropriate level within 30 calendar days after receipt of the initial adverse determination.

#### **H.6 OPTION TO EXTEND THE TERM OF THE CONTRACT-- COST-PLUS-AWARD-FEE CONTRACT (EPAAR 1552.217-72) (APR 1984) DEVIATION**

The Government has the option to extend the term of this contract for -2 additional three year periods. If more than 60 days remain in the contract period of performance, the Government, without prior written notification, may exercise this option by issuing a contract modification. To exercise this option within the last 60 days of the period of performance, the Government must provide to the Contractor written notification prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option.



Use of an option will result in the following contract modifications:

(a) The "Period of Performance" clause will be amended to cover:

<u>PERIOD</u>	<u>START DATE</u>	<u>END DATE</u>
Option Period I	Upon expiration Of the Base Period	3 Years from option start date.
Option Period II	Upon expiration of Option Period I	3 years from option start date.

(b) Paragraph (a) of the "Level of Effort" clause will be amended to reflect a new and separate level of effort:

<u>PERIOD</u>	<u>LEVEL OF EFFORT (DIRECT LABOR HOURS)</u>
OPTION PERIOD I	10,645
OPTION PERIOD II	10,645

(c) The "Estimated Cost Base Fee and Award Fee" clause will be amended to reflect increased estimated costs and base fee and award fee pool for each option period as follows:

<u>PERIOD</u>	<u>ESTIMATED COST</u>	<u>BASE FEE</u>	<u>AWARD FEE</u>	<u>TOTAL COST + FEE</u>
OPTION PERIOD I	\$2,697,914	\$102,793	\$154,191	\$2,954,898
SUBCONTRACT POOL	\$0.	\$0.	\$0.	\$0.
COMPLETION FORM	\$0.	\$0.	\$0.	\$0.
OPTION PERIOD II	\$3,005,421	\$120,216	\$180,325	\$3,305,962
SUBCONTRACT POOL	\$0.	\$0.	\$0.	\$0.
COMPLETION FORM	\$0.	\$0.	\$0.	\$0.

(d) If this contract contains "not to exceed amounts" for elements of other direct costs (ODC), those amounts will be increased as follows:

N/A

(e) The exercise of the option periods of the contract will result in the following fixed price program support:

<u>PROGRAM SUPPORT</u>	<u>FIXED PRICE</u>
OPTION PERIOD I	\$2,908,800
OPTION PERIOD II	\$3,241,008

#### H.7 OPTION FOR INCREASED QUANTITY-TERM FORM SEGMENT

(a) By issuing a contract modification, the Government may increase the estimated level of effort as follows:

(i) **BASE PERIOD.** For the Term Form Segment, the Government may

issue a maximum of 73 orders to increase the level of effort in multiples of 11,082 direct labor hours during the Base Period for a maximum of 808,995 optional direct labor hours during the base period. Therefore, except as provided in paragraph (c) of the clause in Section B entitled "LEVEL OF EFFORT--COST-REIMBURSEMENT (TERM CONTRACT)", the total number of direct labor hours ordered during the Base Period of the contract, including all optional hours, shall not exceed 862,221 hours.

(ii) **OPTION PERIOD I.** For the Term Form Segment, the Government may issue a maximum of 50 orders to increase the level of effort in multiples of 10,800 direct labor hours during the Option Period for a maximum of 540,000 optional direct labor hours during the option period. Therefore, except as provided in paragraph (c) of the clause in Section B entitled "LEVEL OF EFFORT--COST-REIMBURSEMENT (TERM CONTRACT)", the total number of direct labor hours ordered during the Option Period of the contract, including all optional hours, shall not exceed 550,645 hours.

(ii) **OPTION PERIOD II.** For the Term Form Segment, the Government may issue a maximum of 25 orders to increase the level of effort in multiples of 10,740 direct labor hours during the Option Period for a maximum of 268,500 optional direct labor hours during the option period. Therefore, except as provided in paragraph (c) of the clause in Section B entitled "LEVEL OF EFFORT--COST-REIMBURSEMENT (TERM CONTRACT)", the total number of direct labor hours ordered during the Option Period of the contract, including all optional hours, shall not exceed 279,145 hours.

(b) The estimated cost, base fee, and award fee pool for each option increment of hours is as follows:

BASE PERIOD OPTION	ESTIMATED COST	BASE FEE	AWARD FEE POOL	TOTAL EST COST PLUS FEE
1-10	\$1,046,791	\$30,050	\$ 45,085	\$ 1,112,926
11-31	\$1,069,389	\$30,778	\$ 46,168	\$ 1,146,334
32-52	\$1,097,435	\$31,614	\$ 47,240	\$ 1,176,469
53-73	\$1,127,968	\$32,503	\$ 48,756	\$ 1,209,227
OPT. PERIOD I OPTION	ESTIMATED COST	BASE FEE	AWARD FEE POOL	TOTAL EST COST PLUS FEE
1-17	\$1,140,877	\$ 33,213	\$ 49,820	\$1,223,910
18-34	\$1,180,378	\$ 34,368	\$ 51,552	\$1,226,298
35-50	\$1,221,766	\$ 35,572	\$ 53,358	\$1,310,696
OPT. PERIOD II OPTION	ESTIMATED COST	BASE FEE	AWARD FEE POOL	TOTAL EST COST PLUS FEE
1-10	\$1,258,393	\$ 36,707	\$ 55,061	\$1,350,161
11-19	\$1,306,960	\$ 38,144	\$ 57,215	\$1,402,319
20-25	\$1,362,651	\$ 39,731	\$ 59,596	\$1,461,978

(C) The estimated costs, and associated base and award fees, shown in the preceding table are exclusive of the following fixed price program support options. For each term form LOE option increment exercised, a program support is automatically exercised. The table below presents the program support option prices.

<u>YEAR</u>	<u>OPTION RATE</u>	<u>12 MONTH TOTAL</u>
1	\$3,450	\$41,400
2	\$3,554	\$42,648
3	\$3,660	\$43,920
4	\$3,770	\$45,240
5	\$3,902	\$46,824
6	\$4,038	\$48,456
7	\$4,180	\$50,160
8	\$4,326	\$51,912
9	\$4,499	\$53,988
10	\$4,679	\$56,148

The option rate in effect on the date that the option is exercised will be in effect for the 12 month period. The option rate is fixed on that date and not subject to escalation.

#### **H.8 UTILIZATION OF RURAL AREA SMALL BUSINESS CONCERNS (EP 52.219-110) (APR 1990)**

(a) (1) "Rural area small business concern," as used in this clause, means a small business concern that is located and conducts its principal operations in a rural geographic area (county or parish) listed in the Small Business Administration's Listing of Non-Metropolitan Rural Counties by State.

(2) "Small business concern," as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on government contracts, and qualified as a small business under the criteria and size standard in 13 CFR 121.

(b) It is the policy of the Environmental Protection Agency (EPA) that rural area small business concerns shall have the maximum practicable opportunity to participate in performing contracts awarded by EPA.

(c) The contractor shall use its best efforts to give rural area small business concerns the opportunity to participate in the subcontracts it awards to the fullest extent consistent with efficient performance of this contract.

(d) The contractor shall incorporate the substance of this clause in any subcontract that may provide for additional subcontracting opportunities.

#### **H.9 UTILIZATION OF HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (EP 52.219-115) (JUL 1991)**

(a) It is the Policy of the Environmental Protection Agency that historically black colleges and universities shall have the maximum practicable opportunity to participate in performing contracts awarded by the Agency.

(b) The Contractor shall use its best efforts to give historically black colleges and universities the opportunity to participate in any subcontracts awarded to the fullest extent consistent with efficient performance of this contract.

(c) The contractor shall incorporate the substance of this clause in any subcontract which may provide for additional subcontracting opportunities.

#### **H.10 MENTOR-PROTEGE PROGRAM (EP 52.219-135) (SEP 1994)**

(a) The Contractor has been approved to participate in the EPA Mentor-Protege program. The purpose of the Program is to increase the participation of small disadvantaged businesses (SDBs) as subcontractors, suppliers, and ultimately as prime contractors; to establish a mutually beneficial relationship with SDB's and EPA's large business prime contractors (although small businesses may participate as Mentors); to develop the technical and corporate administrative expertise of SDBs which will ultimately lead to greater success in competition for contract opportunities; to promote the economic stability of SDBs; and to aid in the achievement of goals for the use of SDBs in subcontracting activities under EPA contracts.

(b) The Contractor shall submit an executed Mentor-Protege agreement to the Contracting Officer, with a copy to the Office of Small and Disadvantaged Business Utilization or the Small Business Specialist, within thirty (30) calendar days after the effective date of the contract. The Contracting Officer will notify the Contractor within thirty (30) calendar days from its submission if the agreement is not accepted.

(c) The Contractor as a Mentor under the Program agrees to fulfill the terms of its agreement(s) with the Protege firm(s).

(d) If the Contractor or Protege firm is suspended or debarred while performing under an approved Mentor-Protege agreement, the Contractor shall promptly give notice of the suspension or debarment to the Office of Small and Disadvantaged Business Utilization and the Contracting Officer.

(e) Costs incurred by the Contractor in fulfilling their agreement(s) with the Protege firm(s) are not reimbursable on a direct basis to the contract.

(f) In an attachment to Standard Form 294, Subcontracts Report for Individual Contracts, the Contractor shall report on the progress made under their Mentor-Protege agreement(s), providing:

(1) The number of agreements in effect; and

(2) The progress in achieving the developmental assistance objectives under each agreement, including whether the objectives of the agreement have been met, problem areas encountered, and any other appropriate information.

#### **H.11 PROJECT EMPLOYEE CONFIDENTIALITY AGREEMENT (EPAAR 1552.227-76) (MAY 1994)**

(a) The Contractor recognizes that Contractor employees in performing this contract may have access to data, either provided by the Government or first generated during contract performance, of a sensitive nature which should not be released to the public without Environmental Protection Agency (EPA) approval. Therefore, the Contractor agrees to obtain confidentiality agreements from all of its employees working on requirements under this contract.

(b) Such agreements shall contain provisions which stipulate that each employee agrees that the employee will not disclose, either in whole or in part, to any entity external to EPA, the Department of Justice, or the Contractor, any information or data (as defined in FAR Section 27.401) provided by the Government or first generated by the Contractor under this contract, any site-specific cost information, or any enforcement strategy without first obtaining the written permission of the EPA Contracting Officer. If a contractor, through an employee or otherwise, is subpoenaed to testify or produce documents, which could result in such disclosure, the Contractor must provide immediate advance notification to the EPA so that the EPA can authorize such disclosure or have the opportunity to take action to prevent such disclosure. Such agreements shall be effective for the life of the contract and for a period of five (5) years after completion of the contract.

(c) The EPA may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to prevent the unauthorized disclosure of information to outside entities. If such a disclosure occurs without the written permission of the EPA Contracting Officer, the Government may terminate the contract, for default or convenience, or pursue other remedies as may be permitted by law or this contract.

(d) The Contractor further agrees to insert in any subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph, unless otherwise authorized by the Contracting Officer.

#### **H.12 INSURANCE COVERAGE (EP 52.228-100) (JUL 1993)**

As provided in paragraph (a)(1) of EP52.228-110, "Insurance-- Liability to Third Persons", the Contractor shall maintain the minimum amounts of liability insurance coverage set forth in FAR 28.307-2, unless otherwise required by the Contracting Officer.

#### **H.13 INSURANCE--LIABILITY TO THIRD PERSONS (EP 52.228-110) (JUN 1993)**

(a) (1) Except as provided in subparagraph (2) immediately following, the Contractor shall provide and maintain workers' compensation, employer's liability, comprehensive general liability (bodily injury), comprehensive automobile liability (bodily injury and property damage) insurance, and such other insurance as the Contracting Officer may require under this contract.

(2) The Contractor may, with the approval of the Contracting Officer, maintain a self-insurance program; provided that, with respect to workers' compensation, the Contractor is qualified pursuant to statutory authority.

(3) All insurance required by this paragraph shall be in a form and amount and for those periods as the Contracting Officer may require or approve and with insurers approved by the Contracting Officer.

(b) The Contractor agrees to submit for the Contracting Officer's approval, to the extent and in the manner required by the Contracting Officer, any other insurance that is maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement.

(c) The Contractor shall be reimbursed for that portion of the reasonable cost of insurance allocable to this contract, and required or approved under this clause in accordance with its established cost accounting practices.

#### **H.14 STATE AND LOCAL TAXES (EPAAR 1552.229-70) (NOV 1989)**

In accordance with FAR 29.303 and FAR 31.205-41, the Contractor or any subcontractor under this contract shall not be reimbursed for payment of any State and local taxes for which an exemption is available. The Contractor is responsible for determining the availability of State and local tax exemptions and obtaining such exemptions, if available. The Contractor shall include this clause, suitably modified to identify the parties, in all subcontracts at any tier. The Contractor shall notify the Contracting Officer if problems arise in obtaining a State and local tax exemption. The contractor may seek a waiver by the Contracting Officer from this requirement if the administrative burden of seeking an exemption appears to outweigh the potential savings to the Government.

#### **H.15 SCREENING BUSINESS INFORMATION FOR CLAIMS OF CONFIDENTIALITY (EPAAR 1552.235-70) (APR 1984)**

(a) Whenever collecting information under this contract, the Contractor agrees to comply with the following requirements:

(1) If the Contractor collects information from public sources, such as books, reports, journals, periodicals, public records, or other sources that are available to the public without restriction, the Contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(2) If the Contractor collects information from a State or local Government or from a Federal agency, the Contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(3) If the Contractor collects information directly from a business or from a source that represents a business or businesses, such as a trade association:

(i) Before asking for the information, the Contractor shall identify itself, explain that it is performing contractual work for the Environmental Protection Agency, identify the information that it is seeking to collect, explain what will be done with the information, and give the following notice:

(A) You may, if you desire, assert a business confidentiality claim covering part or all of the information. If you do assert a claim, the information will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2, Subpart B.

(B) If no such claim is made at the time this information is received by the Contractor, it may be made available to the public by the Environmental Protection Agency without further notice to you.

(C) The Contractor shall, in accordance with FAR Part 9, execute a written agreement regarding the limitations of the use of this information and forward a copy of the agreement to the Contracting Officer.

(ii) Upon receiving the information, the Contractor shall make a written notation that the notice set out above was given to the source, by whom, in what form, and on what date.

(iii) At the time the Contractor initially submits the information to the appropriate program office, the Contractor shall submit a list of these sources, identify the information according to source, and indicate whether the source made any confidentiality claim and the nature and extent of the claim.

(b) The Contractor shall keep all information collected from nonpublic sources confidential in accordance with the clause in this contract entitled "Treatment of Confidential Business Information" as if it had been furnished to the Contractor by EPA.

(c) The Contractor agrees to obtain the written consent of the Contracting Officer, after a written determination by the appropriate program office, prior to entering into any subcontract that will require the subcontractor to collect information. The Contractor agrees to include this clause, including this paragraph (c), and the clause entitled "Treatment of Confidential Business Information" in all subcontracts awarded pursuant to this contract that require the subcontractor to collect information.

#### **H.16 TREATMENT OF CONFIDENTIAL BUSINESS INFORMATION (EPAAR 1552.235-71) (APR 1984)**

(a) The Contracting Officer, after a written determination by the appropriate program office, may disclose confidential business information (CBI) to the Contractor necessary to carry out the work required under this contract. The Contractor agrees to use the CBI only under the following conditions:

(1) The Contractor and Contractor's employees shall: (i) use the CBI only for the purposes of carrying out the work required by the contract; (ii) not disclose the information to anyone other than properly cleared EPA employees without the prior written approval of the Assistant General Counsel for Contracts and Information Law; and (iii) return to the Contracting Officer all copies of the information, and any abstracts or excerpts therefrom, upon request by the Contracting Officer, whenever the information is no longer required by the Contractor for the performance of the work required by the contract, or upon completion of the contract.

(2) The Contractor shall obtain a written agreement to honor the above limitations from each of the Contractor's employees who will have access to the information before the employee is allowed access.

(3) The Contractor agrees that these contract conditions concerning the use and disclosure of CBI are included for the benefit of, and shall be enforceable by, both EPA and any affected businesses having a proprietary interest in the information.

(4) The Contractor shall not use any CBI supplied by EPA or obtained

during performance hereunder to compete with any business to which the CBI relates.

(b) The Contractor agrees to obtain the written consent of the CO, after a written determination by the appropriate program office, prior to entering into any subcontract that will involve the disclosure of CBI by the Contractor to the subcontractor. The Contractor agrees to include this clause, including this paragraph (b), in all subcontracts awarded pursuant to this contract that require the furnishing of CBI to the subcontractor.

#### **H.17 DATA SECURITY FOR TOXIC SUBSTANCES CONTROL ACT CONFIDENTIAL BUSINESS INFORMATION (EPAAR 1552.235-78) (DEC 1997)**

The Contractor shall handle Toxic Substances Control Act (TSCA) confidential business information (CBI) in accordance with the contract clause entitled "Treatment of Confidential Business Information" and "Screening Business Information for Claims of Confidentiality."

(a) The Project Officer (PO) or his/her designee, after a written determination by the appropriate program office, may disclose TSCA CBI to the contractor necessary to carry out the work required under this contract. The Contractor shall protect all TSCA CBI to which it has access (including CBI used in its computer operations) in accordance with the following requirements:

(1) The Contractor and Contractor's employees shall follow the security procedures set forth in the TSCA CBI Security Manual. The manual may be obtained from the Director, Information Management Division (IMD), Office of Pollution Prevention and Toxics (OPPT), U.S. Environmental Protection Agency (EPA), 401 M Street, SW, Washington, DC 20460. Prior to receipt of TSCA CBI by the Contractor, the Contractor shall ensure that all employees who will be cleared for access to TSCA CBI have been briefed on the handling, control, and security requirements set forth in the TSCA CBI Security Manual.

(2) The Contractor shall permit access to and inspection of the Contractor's facilities in use under this contract by representatives of EPA's Assistant Administrator for Administration and Resources Management, and the TSCA Security Staff in the OPPT, or by the EPA Project Officer.

(3) The Contractor Document Control Officer (DCO) shall obtain a signed copy of EPA Form 7740-6, "TSCA CBI Access Request, Agreement, and Approval," from each of the Contractor's employees who will have access to the information before the employee is allowed access. In addition, the Contractor shall obtain from each employee who will be cleared for TSCA CBI access all information required by EPA or the U.S. Office of Personnel Management for EPA to conduct a Minimum Background Investigation.

(b) The Contractor agrees that these requirements concerning protection of TSCA CBI are included for the benefit of, and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information.

(c) The Contractor understands that CBI obtained by EPA under TSCA may not be disclosed except as authorized by the Act, and that any unauthorized disclosure by the Contractor or the Contractor's employees may subject the Contractor and the Contractor's employees to the criminal penalties specified



in TSCA (15 U.S.C. 2613(d)). For purposes of this contract, the only disclosures that EPA authorizes the Contractor to make are those set forth in the clause entitled "Treatment of Confidential Business Information."

(d) The Contractor agrees to include the provisions of this clause, including this paragraph (d), in all subcontracts awarded pursuant to this contract that require the furnishing of CBI to the subcontractor.

(e) At the request of EPA or at the end of the contract, the Contractor shall return to the EPA PO or his/her designee, all documents, logs, and magnetic media which contain TSCA CBI. In addition, each Contractor employee who has received TSCA CBI clearance will sign EPA Form 7740-18, "Confidentiality Agreement for Contractor Employees Upon Relinquishing TSCA CBI Access Authority." The Contractor DCO will also forward those agreements to the EPA OPPT/IMD, with a copy to the CO, at the end of the contract.

(f) If, subsequent to the date of this contract, the Government changes the security requirements, the CO shall equitably adjust affected provisions of this contract, in accordance with the "Changes" clause, when:

(1) The Contractor submits a timely written request for an equitable adjustment; and,

(2) The facts warrant an equitable adjustment.

#### **H.18 RELEASE OF CONTRACTOR CONFIDENTIAL BUSINESS INFORMATION (EPAAR 1552.235-79) (APR 1996)**

(a) The Environmental Protection Agency (EPA) may find it necessary to release information submitted by the Contractor either in response to this solicitation or pursuant to the provisions of this contract, to individuals not employed by EPA. Business information that is ordinarily entitled to confidential treatment under existing Agency regulations (40 C.F.R. Part 2) may be included in the information released to these individuals. Accordingly, by submission of this proposal or signature on this contract or other contracts, the Contractor hereby consents to a limited release of its confidential business information (CBI).

(b) Possible circumstances where the Agency may release the Contractor's CBI include, but are not limited to the following:

(1) To other Agency contractors tasked with assisting the Agency in the recovery of Federal funds expended pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sec. 9607, as amended, (CERCLA or Superfund);

(2) To the U.S. Department of Justice (DOJ) and contractors employed by DOJ for use in advising the Agency and representing the Agency in procedures for the recovery of Superfund expenditures;

(3) To parties liable, or potentially liable, for costs under CERCLA Sec. 107 (42 U.S.C. Sec. 9607), et al, and their insurers (Potentially Responsible Parties) for purposes of facilitating settlement or litigation of claims against such parties;

(4) To other Agency contractors who, for purposes of performing the work required under the respective contracts, require access to information the Agency obtained under the Clean Air Act (42 U.S.C. 7401 et seq.); the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); the Safe Drinking Water Act (42 U.S.C. 300f et seq.); the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); or the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.);

(5) To other Agency contractors tasked with assisting the Agency in handling and processing information and documents in the administration of Agency contracts, such as providing both preaward and post award audit support and specialized technical support to the Agency's technical evaluation panels;

(6) To employees of grantees working at EPA under the Senior Environmental Employment (SEE) Program;

(7) To Speaker of the House, President of the Senate, or Chairman of a Committee or Subcommittee;

(8) To entities such as the General Accounting Office, boards of contract appeals, and the Courts in the resolution of solicitation or contract protests and disputes;

(9) To Agency contractor employees engaged in information systems analysis, development, operation, and maintenance, including performing data processing and management functions for the Agency; and

(10) Pursuant to a court order or court-supervised agreement.

(c) The Agency recognizes an obligation to protect the contractor from competitive harm that may result from the release of such information to a competitor. (See also the clauses in this document entitled "Screening Business Information for Claims of Confidentiality" and "Treatment of Confidential Business Information.") Except where otherwise provided by law, the Agency will permit the release of CBI under subparagraphs (1), (3), (4), (5), (6), or (9) only pursuant to a confidentiality agreement.

(d) With respect to contractors, 1552.235-71 will be used as the confidentiality agreement. With respect to Potentially Responsible Parties, such confidentiality agreements may permit further disclosure to other entities where necessary to further settlement or litigation of claims under CERCLA. Such entities include, but are not limited to accounting firms and technical experts able to analyze the information, provided that they also agree to be bound by an appropriate confidentiality agreement.

(e) This clause does not authorize the Agency to release the Contractor's CBI to the public pursuant to a request filed under the Freedom of Information Act.

(f) The Contractor agrees to include this clause, including this paragraph (f), in all subcontracts at all levels awarded pursuant to this contract that require the furnishing of confidential business information by the subcontractor.

**H.19 DATA SECURITY FOR FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT  
CONFIDENTIAL BUSINESS INFORMATION (EPAAR 1552.235.77) (DEC 1997)**

The Contractor shall handle Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) confidential business information (CBI) in accordance with the contract clause entitled "Treatment of Confidential Business Information" and "Screening Business Information for Claims of Confidentiality," the provisions set forth below, and the Contractor's approved detailed security plan.

(a) The Project Officer (PO) or his/her designee, after a written determination by the appropriate program office, may disclose FIFRA CBI to the contractor necessary to carry out the work required under this contract. The Contractor shall protect all FIFRA CBI to which it has access (including CBI used in its computer operations) in accordance with the following requirements:

(1) The Contractor and Contractor's employees shall follow the security procedures set forth in the FIFRA Information Security Manual. The manual may be obtained from the Project Officer (PO) or the Chief, Information Services Branch (ISB), Program Management and Support Division, Office of Pesticide Programs (OPP) (H7502C), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

(2) The Contractor and Contractor's employees shall follow the security procedures set forth in the Contractor's security plan(s) approved by EPA.

(3) Prior to receipt of FIFRA CBI by the Contractor, the Contractor shall ensure that all employees who will be cleared for access to FIFRA CBI have been briefed on the handling, control, and security requirements set forth in the FIFRA Information Security Manual.

(4) The Contractor Document Control Officer (DCO) shall obtain a signed copy of the FIFRA "Contractor Employee Confidentiality Agreement" from each of the Contractor's employees who will have access to the information before the employee is allowed access.

(b) The Contractor agrees that these requirements concerning protection of FIFRA CBI are included for the benefit of, and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information.

(c) The Contractor understands that CBI obtained by EPA under FIFRA may not be disclosed except as authorized by the Act, and that any unauthorized disclosure by the Contractor or the Contractor's employees may subject the Contractor and the Contractor's employees to the criminal penalties specified in FIFRA (7 U.S.C. 136h(f)). For purposes of this contract, the only disclosures that EPA authorizes the Contractor to make are those set forth in the clause entitled "Treatment of Confidential Business Information."

(d) The Contractor agrees to include the provisions of this clause, including this paragraph (d), in all subcontracts awarded pursuant to this contract that require the furnishing of CBI to the subcontractor.

(e) At the request of EPA or at the end of the contract, the Contractor shall return to the EPA PO or his/her designee all documents, logs, and magnetic media which contain FIFRA CBI. In addition, each Contractor employee

who has received FIFRA CBI clearance will sign a "Confidentiality Agreement for Contractor Employees Upon Relinquishing FIFRA CBI Access Authority." The Contractor DCO will also forward those agreements to the EPA PO or his/her designee, with a copy to the CO, at the end of the contract.

(f) If, subsequent to the date of this contract, the Government changes the security requirements, the CO shall equitably adjust affected provisions of this contract, in accordance with the "Changes" clause when:

(1) The Contractor submits a timely written request for an equitable adjustment; and

(2) The facts warrant an equitable adjustment.

#### **H.20 TECHNICAL DIRECTION (EPAAR 1552.237-71) (APR 1984) DEVIATION**

(a) The Project Officer is the primary representative of the Contracting Officer authorized to provide technical direction on contract performance.

(b) Individuals other than the Project Officer may be authorized to provide technical direction. If individuals other than the Project Officer are authorized to provide technical direction, their names will be specified in the contract, delivery order, work assignment or technical direction document as appropriate. A Delivery Order Project Officer, Work Assignment Manager or Task Manager is authorized to provide technical direction, subject to the limitations set forth below, only on his/her delivery order, work assignment or technical direction document.

(c) Technical direction includes:

(1) Direction to the contractor which assists the contractor in accomplishing the Statement of Work.

(2) Comments on and approval of reports or other deliverables.

(d) Technical direction must be within the contract and the delivery order, work assignment or technical direction document statement of work. The Project Officer or any other technical representative of the Contracting Officer does not have the authority to issue technical direction which (1) institutes additional work outside the scope of the contract, delivery order, work assignment or technical direction document; (2) constitutes a change as defined in the "Changes" clause; (3) causes an increase or decrease in the estimated cost of the contract, delivery order, work assignment or technical direction document; (4) alters the period of performance; or (5) changes any of the other express terms or conditions of the contract, delivery order, work assignment or technical direction document.

(e) Technical direction will be issued in writing or confirmed in writing within five (5) calendar days after verbal issuance. One copy of the technical direction memorandum will be forwarded to the Contracting Officer and the Project Officer.

#### **H.21 KEY PERSONNEL (EPAAR 1552.237-72) (APR 1984)**

(a) The Contractor shall assign to this contract the following key personnel:

UDAI SINGH -CH2M HILL- PROGRAM MANAGER

BRUCE APPEL -URSG - MANAGER

(b) During the first ninety (90) calendar days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph (c) below. After the initial ninety (90) calendar day period, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least 15 calendar days prior to making any permanent substitutions.

(c) The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on substitutions. This clause will be modified to reflect any approved changes of key personnel.

#### **H.22 RIGHT OF WAY LAND EASEMENT**

The Government, with assistance and cooperation from the contractor, shall obtain access rights and access agreements as necessary to fulfill the requirements of this contract.

#### **H.23 UPDATE OF CONFLICT OF INTEREST PLAN (RACS-H-96-01)**

The Contractor shall submit an annual report of any changes to the conflict of interest plan submitted with its offer to the Administrative Contracting Officer. This update shall cover any changes to the conflict of interest plan in the one-year period after the date of contract award, and all subsequent reports of any changes shall cover successive annual periods thereafter, until expiration or termination of the contract. The report notifying the EPA Contracting Officer of any changes to the conflict of interest plan must be received by the Contracting Officer no later than 45 calendar days after the close of the annual period. If there have been no changes to the conflict of interest plan during the annual period, a 'no change' report notifying the Contracting Officer is required.

#### **H.24 OPTION FOR INCREASED QUANTITY - COMPLETION FORM CEILING (RACS-H-96-03)**

(a) By issuing a contract modification, the Government may increase the completion form ceiling as follows:

(1) For the Base Period:

The ceiling in the Completion Form Segment of the contract may be increased in multiples of \$500,000, to a maximum of \$35,000,000.

The Government may issue a total of 70 orders to increase the contract ceiling for the Completion Form Segment. The total dollar amount provided during the Base Period of the contract shall not exceed \$40,000,000.

(2) For Option Period I:

The ceiling in the Completion Form Segment of the contract may be increased in multiples of \$500,000, to a maximum of \$10,000,000. The Government may issue a total of 20 orders to increase the contract ceiling for the Completion Form Segment. The total dollar amount provided during the Option Period I of the contract shall not exceed \$10,000,000.

(3) For Option Period II:

The ceiling in the Completion Form Segment of the contract may be increased in multiples of \$500,000 to a maximum of \$5,000,000. The Government may issue a total of 10 orders to increase the contract ceiling for the Completion Form Segment. The total dollar amount provided during the Option Period I of the contract shall not exceed \$5,000,000.

(B) When these options are exercised, clauses in Section B entitled "Estimated Cost, Base Fee, and Award Fee," and entitled "Completion Form Ceiling," will be modified accordingly.

#### H.25 OPTION FOR INCREASED QUANTITY - SUBCONTRACTING POOL (RACS-H-96-04)

(a) Beginning with the base period and continuing in the option period, the Government has the unilateral right to increase the Subcontracting Pool as specified below. However, the Subcontracting Pool dollars can only be expended in the period specified.

(1) For the Base Period:

The Subcontracting Pool Portion of the contract may be increased in multiples of \$500,000 to a maximum of \$20,000,000. The Government may issue a total of 40 orders to increase the Subcontracting Pool ceiling during the Base period of the contract. The total Subcontracting Pool dollars provided during the Base Period shall not exceed \$25,000,000.

(2) For the Option Period I:

The Subcontracting Pool Portion of the contract may be increased in multiples of \$500,000, to a maximum of \$10,000,000. The Government may issue a total of 20 orders to increase the Subcontracting Pool ceiling during the Option period I of the contract. The total Subcontracting Pool dollars provided during Option Period I shall not exceed \$10,000,000.

(3) For the Option Period II:

The Subcontracting Pool Portion of the contract may be increased in multiples of \$500,000, to a maximum of \$5,000,000. The Government may issue a total of 10 orders to increase the Subcontracting Pool ceiling during the

Option Period II of the contract. The total Subcontracting Pool dollars provided during Option Period I shall not exceed \$5,000,000.

(b) If the Government exercises these options, the following increases will be incorporated into the contract:

Period	Estimated Cost	Award Base Fee	Fee Pool	Total
Base Period	\$476,190	\$9525	\$14,285	
\$500,000				
Option Period I	\$476,190	\$9,525	\$14,285	
\$500,000				
Option Period II	\$476,190	\$9,525	\$14,285	
\$500,000				

(c) When these options are exercised, clauses in Section B entitled "Estimated Cost, Base Fee, and Award Fee," and entitled "Completion Form Ceiling," will be modified accordingly.

#### H.26 HEALTH AND SAFETY (RACS-H-96-06)

(a) The nature of the work to be performed under this contract is inherently hazardous.

(b) In performance of work under this contract the Contractor shall, as a minimum, satisfy all Federal, state, and local statutes, regulations, ordinances, etc., regarding health and safety. Beyond this minimum requirement, the Contractor shall develop and submit for review to the Contracting Officer its corporate health and safety plan in accordance with the statement of work.

#### H.27 PUBLIC COMMUNICATION (RACS-H-96-07)

The Contractor shall not represent itself as EPA to outside parties. To maintain public trust and to not mislead the public, the Contractor shall, when communicating with outside parties, explain that it is an Agency Contractor.

#### H.28 OTHER DIRECT COSTS AND TRAVEL (RACS-H-96-08)

(1) Other Direct Costs--Other Direct Costs (ODCs) are items which are allowable and allocable direct costs to the contract for which EPA may reimburse the Contractor. ODCs will be treated in accordance with the Clause entitled "Allowable Cost and Payment (FAR 52.216-7)." Such items shall be charged in accordance with the Contractor's established and accepted accounting practices except as stated below.

(2) Travel--Except as explicitly set forth below, the Contractor shall be reimbursed for allowable and allocable travel costs actually incurred by and paid to the Contractor's employees, provided such costs do not exceed the amount that would be payable to an employee of the Environmental Protection Agency conducting the same travel while on Government business. In

determining the dollar value of allowable contractor employee travel costs, the limitation of the Federal Travel Regulations effective on the date of travel will apply to contractor employees to the same extent they apply to Federal Government employees.

(3) The Contractor may be required to furnish to the Contracting Officer documentary proof of every travel expenditure that exceeds seventy-five dollars (\$75), including receipts for common carrier transportation expenditures. Bona fide lodging receipts may be required to be submitted by the Contractor along with the monthly invoices.

(4) The Contractor may elect to reimburse its employees for meals and incidental expenses (as defined in the Federal Travel Regulations) on a per diem basis, and the Contractor will be reimbursed for such payments. In no event shall the reimbursement allowed under this provision exceed the standard per diem for meals and incidental expenses allowable under the Federal Travel Regulations.

#### **H.29 EPA REGIONAL CROSSOVER (RACS-H-96-09)**

(a) In the event of the Contractor's potential or actual conflict of interest in conducting a specific work assignment (as determined by the Contracting Officer), or when the maximum amount of effort has already been ordered or is about to be ordered by the Government, or in any other situation in which it is determined to be in the best interest of the Government, professional services for this Region may be ordered through another Region's contractor.

(b) The Contractor agrees to accept work assignments for services within any other Region, provided the amount of such services, in addition to other work performed under this contract, does not exceed the maximum amounts specified in the Section B clause titled "Estimated Cost, Base Fee and Award Fee."

#### **H.30 RETENTION AND AVAILABILITY OF CONTRACTOR FILES (RACS-H-96-10)**

(a) This contract contains the Federal Acquisition Regulation Clause 52.215-2 "AUDIT-NEGOTIATION (APR 1984)" wherein the Contractor is required to maintain and make available to the Contracting Officer or representative of the Contracting Officer (in accordance with FAR Subpart 4.7 "Contractor Records Retention") at its office at all reasonable times the books, records, documents, and other evidence relating to this contract including personnel utilization records, site records, and accounting procedures and practices sufficient to reflect properly all costs claimed to have been incurred under this contract. Such files shall be made available for examination, audit or reproduction.

(b) The Contractor is advised that the Government may file suit against potential responsible parties for costs incurred relative to site related cleanup activities. In such proceedings, the Contractor's cost and performance records may become an integral part of the Government's case.

(c) Accordingly, due to the extended nature of court proceedings and EPA



audit requirements, the Contractor shall make available to the Government, and only to the Government, all audit and financial information relative to the work conducted under this contract as well as the information required in the Audit Clause for a total of 10 years after final payment under this negotiated contract in lieu of the 3 year period stated in the clause "AUDIT-NEGOTIATION (APR 1984)." (See FAR 4.703(b)(1))

(d) In addition, the Contractor shall make available to the Government and only to the Government the records relating to any appeals, litigation or the settlement of claims with third parties and which relate to this contract (i.e., cost recovery) until such appeals, litigation, or claims are disposed of.

(e) The Contractor shall not destroy original records relating to the contract until:

- (1) all litigation involving the records has been finally settled and approval is obtained from the CO; or
- (2) Ten (10) years have passed from the date of final payment and no litigation involving the records has been instituted and approval of the CO is obtained.

In no event should individual records be destroyed if litigation is in process or is pending related to such records.

(f) From time to time, the Government may, in support of litigation cases, have the need for the Contractor to research and make available such records in a form and manner not normally maintained by the Contractor. Such effort shall be deemed to be within the scope of work under this contract. If this effort is required after performance of this contract, a separate negotiated procurement action may be instituted with the Contractor.

(g) The final invoice (completion voucher) submitted hereunder, after physical completion of the contract within the stated period of performance, will represent the final claim under the contract.

### **H.31 EXPERT TESTIMONY (RACS-H-96-11)**

From time to time, the Government may have the need for expert testimony during enforcement proceedings for a given site where the Contractor provided services. In the event such services are required during the term of this contract, such effort shall be considered within the scope of this contract. The individual(s) selected to testify shall be fully knowledgeable of the details of the site under litigation, shall be credible, and be an expert in their field. The testimony shall normally relate to what actions the contractor took at a site. In the event such services are required after performance of this contract, a separate negotiated procurement action may be instituted with the Contractor.

### **H.32 FUTURE EXPERT CONSULTING SERVICES (RACS-H-96-12)**

It is recognized that, subsequent to the performance period of this contract, the need may arise to provide expert testimony during hearing and/or

court proceedings involving site specific activities or other matters, with regard to which personnel provided by the Contractor under this contract (including subcontractor personnel) would have gained expertise as a result of tasks performed under this contract. Therefore, the Contractor agrees to make available expert consulting services in support of such future proceedings, and to enter into intent agreements as necessary with subcontractors to ensure the availability of subcontractor personnel. These intent agreements to provide such services in the future serve as notices of intent only. Such services are not purchased hereby and will be obtained through a separate contractual agreement.

### H.33 DATA (RACS-H-96-13)

(a) The Contractor hereby agrees to deliver to the Government, as directed in individual work assignments and within the contract period of performance, the following documents:

- (1) All originals and copies, and all abstracts or excerpts therefrom, of all information supplied to the Contractor by the Government and specifically designated "Confidential Business Information," pursuant to the contract clause entitled "Treatment of Confidential Information."
- (2) All originals and copies, and all abstracts or excerpts therefrom, of all information collected by the Contractor directly from a business or from a source that represents a business or businesses, such as a trade association, pursuant to the contract clause entitled "Screening Business Information for Claims of Confidentiality."
- (3) All originals (if originals are unavailable, copies will be acceptable) of all data, as that term is defined in the contract clause entitled "Rights in Data-General," which is pertinent to support of the Remedial Program and has been furnished to the Contractor in performance of this contract. In the event that there is any disagreement as to whether certain data is considered pertinent, the Project Officer shall make the final determination. This determination shall not be subject to the terms of the clause entitled "Disputes" set forth in the contract clauses of this contract.
- (4) Copies of all other types of additional data, including but not limited to, reference materials, source lists, field notes, log books, chemical data, maps, and photographs pursuant to the contract clause entitled "Additional Data Requirements."

(b) With regard to all copies of data specifically requested by the Government and supplied in response thereto by the Contractor under the FAR contract clause 52.227-16, entitled "Additional Data Requirements," (Section I, by-reference) the Contractor shall, pursuant to said clause, be entitled to an equitable adjustment to cover the cost of collecting, preparing, editing, duplicating, assembling and shipping the data requested.

(c) The Contractor shall not be required to turn over or provide to the Government any of the following:

- (1) Contractual agreements for supplies or services. (This exclusion does not apply, however, to data resulting from such services.)
- (2) Contractor and personnel performance ratings and evaluations.
- (3) Data previously developed by parties other than the Contractor which was acquired independently of this contract or acquired by the Contractor prior to this contract under condition restricting the Contractor's right to such data.

(d) Upon receipt of all data provided to the Government by the Contractor under Paragraph (a) above, the Government shall acknowledge in writing to the Contractor the receipt of all confidential or other data.

#### **H.34 SIGNING OF UNIFORM HAZARDOUS WASTES MANIFESTS (RACS-H-96-14)**

(a) Unless otherwise directed in writing by the EPA Project Officer, the Contractor is authorized to sign uniform hazardous waste manifest forms (40 CFR Part 262) ("manifests") and land ban notifications/certifications /demonstrations (40 CFR Part 268.7 and .8) ("land ban records") for EPA at Superfund sites which involve off-site transport of hazardous wastes. The Contractor shall sign the manifests and land ban records after writing or printing the phrase "On behalf of the United States Environmental Protection Agency" in the signature block. The Contractor shall not be considered a generator of hazardous wastes solely as a result of having signed the manifests or land ban records of behalf of EPA. Nothing contained in this paragraph shall be construed to create an agency relationship between the Contractor and EPA except with respect to the authorization to sign the manifests and land ban records. This authorization only extends to sites assigned under this contract.

(b) This clause may be inserted in subcontracts. The Contractor may delegate the authority set forth therein to its subcontractors.

#### **H.35 REQUIREMENT TO SUBMIT NOTICE (SF98/98A) (RACS-H-96-15)**

(a) Upon receipt of work assignment the Contractor shall review the Statement of Work and determine whether the principal purpose of the subcontract is for services other than those incidental to performance of professional services. If the principal purpose of the work assignment is for services other than those incidental to the performance of professional services, and the contractor elects to subcontract all or part of the work, the resultant subcontract must be a subcontract for services and the Service Contract Act (SCA) of 1965, as amended shall be included. The Contractor shall complete and submit to the Contracting Officer an SF98/98a "Notice of Intention to Make a Service Contract and Response to Notice/Attachment A". The Contractor shall complete the SF 98/98a in accordance with the instructions on the SF98 and FAR Section 22.1008-2. The Contractor may obtain SF98/98As from the Internet at <http://fillforms.gsa.gov/>. The Contractor shall submit the notice to the Contracting Officer at least 15 days prior to issuance of an invitation to bid or request for proposal. The Contracting Officer will forward the properly completed SF98/98A to Department of Labor, Wage and Hour Division. Wage and Hour Division will take one of the following actions: (a) Issue and attach the applicable wage determination(s); (b)

indicate that no wage determination is in effect for the locality or contract performance; (c) indicate that the service contract is not applicable; or (d) return the Notice for additional information.

#### **H.36 NOTICE OF AWARD (RACS-H-96-16)**

Within 10 working days after the Contractor awards a subcontract for service, it shall complete and submit to the Contracting Officer a Standard Form 99, Notice of Award of Contract.

#### **H.37 NOTIFICATION TO SUBCONTRACTOR AND EMPLOYEES (RACS-H-96-17)**

(a) The Contractor shall ensure that the subcontractor is aware of the labor standard requirements and its responsibilities under these requirements.

(b) At time of award the Contractor shall furnish the subcontractor the Department of Labor Publication WH-1313, Notice to Employees Working on Government Contracts (obtainable from the Contracting Officer) for posting at a prominent and accessible place at the worksite before Contractor performance begins.

#### **H.38 DAVIS-BACON ACT (DBA) WAGE DETERMINATIONS (RACS-H-96-18)**

(a) When developing solicitations for construction subcontracts exceeding \$2,000 the prime Contractor shall identify the applicable DBA Wage Determination from the "General Wage Determinations issued under Davis-Bacon and Related Acts" which are issued by the Department of Labor and available through the Government Printing Office (see FAR 22.404(3)). The prime Contractor shall notify the EPA Contracting Officer of the appropriate wage determinations to be used prior to issuance of the solicitation and/or prior to bid/proposal receipt. The prime Contractor shall subscribe to the Department of Labor internet service to request the applicable Wage Determination if the prime does not have access to the "General Wage Determinations".

(b) In instances where a published wage determination does not exist that is applicable to the work being performance and /or for the location at which the work is being performed, a project wage determination will have to be requested from the Department of Labor. The prime Contractor shall provide the EPA Contracting Officer with sufficient notice for him/her to request a project wage determination from the Department of Labor (see FAR 22.404- 3). The prime Contractor shall forward an SF308, "Request for Determination and Response to Request", with the classifications of labor identified. The EPA Contracting Officer will verify that the information contained on the SF308 is complete and verify the labor classifications requested with the Project Officer and RPM prior to forwarding the SF308 to the Department of Labor.

#### **H.39 PERFORMANCE AND PAYMENT BONDS (RACS-H-96-19)**

(a) The Miller Act applies to substantial and segregable construction

exceeding \$25,000 under this contract. The Contractor shall furnish payment and performance bonds with the United States as the obligee in amounts specified by the Contracting Officer. Upon request of the prime Contractor and with the consent of the Contracting Officer, the performance bond may be provided by the subcontractor.

(b) In all cases, the Contracting Officer has the latitude to determine that the dollar amount of the Miller Act performance bond shall be "zero".

#### **H.40 ADVANCE AGREEMENT ON BONDING (RACS-H-96-20)**

The Miller Act requires that the prime Contractor obtain performance and payment bonds on substantial and segregable construction exceeding \$25,000 under this contract. When required by the prime Contractor and approved by the Contracting Officer, the prime Contractor may be permitted to fulfill this requirement by requiring that the subcontractor furnish the bonds with the United States named as the obligee on the bond. In that event, it is hereby mutually agreed that there is no intent for the prime Contractor to merely act as the Government's purchasing agent and that this contract shall not be construed as a facilities management contract. It is further agreed that the privity of contract between the prime and the subcontractor and the responsibilities of each is not affected in any way by permitting the subcontractor to provide Miller Act bonds in lieu of the prime Contractor.

#### **H.41 IMPLEMENTATION OF VALUE ENGINEERING IN RAC CONSTRUCTION SUBCONTRACTS (RACS-H-96-21)**

(a) General. This contract is for architect-engineering services. Accordingly, as set forth in FAR 48.104-1(c), the prime contractor shall not share in value engineering savings. However, the contractor shall encourage any subcontractor, under a subcontract for construction as defined in FAR 36.102, to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The subcontractor shall share in any instant contract savings realized from accepted VECP's in accordance with the Value Engineering--Construction clause contained in its subcontract.

(b) Definitions.

"Collateral costs," as used in this clause, means agency costs of operations, maintenance, logistic support or Government furnished property.

"Collateral savings" as used in this clause, means those measurable net reductions resulting from a VECP in the agency's overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

"Contractor development and implementation costs," as used in this clause, means those costs the prime contractor incurs on a VECP specifically in developing, testing, preparing and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

"Government costs," as used in this clause, means those agency costs that

result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistic support. The term does not include the normal administrative costs of processing the VECP.

"Instant contract savings," as used in this clause, means the estimated reduction in Contractor or subcontractor cost of performance resulting from acceptance of the VECP, minus allowable Contractor's development and implementation costs, including subcontractors' development and implementation costs (see paragraph (h) below).

"Value engineering change proposal (VECP)" means a proposal that--

- (1) Requires a change to the work assignment to implement; and
- (2) Results in reducing the estimated cost of the work assignment without impairing essential functions or characteristics; provided, that it does not involve a change--
  - (i) in deliverable end item quantities only; or
  - (ii) to the contract or work assignment type only.

(c) VECP Preparation. As a minimum, the Contractor shall include in each VECP the information described in subparagraphs (1) through (7) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

(1) A description of the difference between the existing work assignment requirement and that proposed, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, and the effect of the change on the end item's performance.

(2) A list and analysis of the work assignment requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) A separate, detailed cost estimate for--

- (i) the affected portions of the existing work assignment requirements, and
- (ii) the VECP.

The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under paragraph (h) below.

(4) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.

(5) A prediction of any effects the proposed change would have on collateral costs to the agency.

(6) A statement of the time by which a work assignment modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the work assignment completion time or delivery schedule.

(7) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract or work assignment numbers involved, and previous Government actions, if known.

(d) Submission. The Contractor shall submit VECP's to the Work Assignment Manager and Project Officer at the worksite, with a copy to the Contracting Officer.

(e) Government action.

(1) The Contracting Officer shall notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer shall notify the Contractor within the 45-day period and provide the reason for the delay and the expected date of the decision. The Government will process VECP's expeditiously; however, it shall not be liable for any delay in acting upon a VECP.

(2) If the VECP is not accepted, the Contracting Officer shall notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.

(3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to a work assignment citing this clause. The Contracting Officer may accept the VECP, even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a work assignment modification applies a VECP to a work assignment, the Contractor shall perform in accordance with the existing work assignment. The Contracting Officer's decision to accept or reject all or part of any VECP shall be final and not subject to the Disputes clause or otherwise subject to litigation under the Contract Disputes Act of 1978 (41 U.S.C. 601-613).

(f) Sharing. (1) The contractor shall not share in any savings attributable to any VECPs. The Government's share of savings shall be determined in accordance with in the Value Engineering -- Construction clause contained in the construction subcontract, described in paragraph (h) below. In no event shall the government's share of savings be less than an amount determined by subtracting Government costs from instant contract savings and multiplying the result by:

(i) 45 percent for fixed-price subcontracts or

(ii) 75 percent for cost-reimbursement subcontracts.

(2) Work Assignment Modifications. Government savings shall be reflected in reductions to the estimated costs of the applicable work assignment incorporated in a work assignment modification which shall--

(i) Accept the VECP;

(ii) Reduce the work assignment estimated cost by the amount of instant contract savings minus the subcontractor's share of savings;

(g) Collateral savings. The Contracting Officer shall be the sole determiner of the amount of collateral savings attributable to any VECP submitted by a subcontractor, and that amount shall not be subject to the Disputes clause or otherwise subject to litigation under 41 U.S.C. 601-613.

(h) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of \$50,000 or more and may include one in subcontracts of lesser value. This clause shall be substantially the same as that contained in FAR 52.248-3, modified to reflect the relationship of the parties (e.g., change "contractor" to "subcontractor" in appropriate places). Attached to this clause is an example of an acceptable subcontract Value Engineering clause. Any subcontract containing a Value Engineering clause shall be subject to the provisions of the clause of this contract entitled "Subcontracts (Cost-Reimbursement and Letter Contracts)". In computing any adjustment in this work assignment's estimated cost under paragraph (f) above, the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs clearly resulting from a VECP accepted by the Government under this contract, but shall exclude any value engineering incentive payments to a subcontractor; provided, that these payments shall not reduce the Government's share of the savings resulting from the VECP.

(i) Data. The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

"These data, furnished under the Value Engineering--Construction clause of contract \_\_\_\_\_, shall not be disclosed outside the Government or duplicated, used or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations."

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

(j) The contractor shall include in its monthly reporting the monthly and cumulative amounts of savings due to the incorporation of any VECPs under this contract.

(k) Neither the base or award fee of this contract shall be increased or decreased as a result of the incorporation of a VECP submitted by a construction subcontractor pursuant to subcontract clause at FAR 52.248-3.



**SAMPLE SUBCONTRACTOR CLAUSE ATTACHED TO CLAUSE  
"IMPLEMENTATION OF VALUE ENGINEERING ON RAC CONSTRUCTION SUBCONTRACTS"**

**VALUE ENGINEERING--CONSTRUCTION**

(a) General. The subcontractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The subcontractor shall share in any instant contract savings realized from accepted VECP's in accordance with paragraph (f) below.

(b) Definitions.

"Collateral costs," as used in this clause, means agency costs of operations, maintenance, logistic support or Government or prime contractor furnished property.

"Collateral savings" as used in this clause, means those measurable net reductions resulting from a VECP in the agency's overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

"Subcontractor development and implementation costs," as used in this clause, means those costs the subcontractor incurs on a VECP specifically in developing, testing, preparing and submitting the VECP, as well as those costs the subcontractor incurs to make the contractual changes required by Government acceptance of a VECP.

"Contractor development and implementation costs," as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

"Government costs," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistic support. The term does not include the normal administrative costs of processing the VECP.

"Instant contract savings," as used in this clause, means the estimated reduction in subcontractor cost of performance resulting from acceptance of the VECP, minus allowable subcontractor and Contractor's development and implementation costs, including lower tier subcontractors' development and implementation costs (see paragraph (h) below).

"Value engineering change proposal (VECP)" means a proposal that--

- (1) Requires a change to the construction subcontract to implement; and
- (2) Results in reducing the subcontract price or estimated cost without impairing essential functions or characteristics; provided, that it does not involve a change--

- (i) in deliverable end item quantities only; or
- (ii) to the subcontract type only.

(c) VECP Preparation. As a minimum, the subcontractor shall include in each VECP the information described in subparagraphs (1) through (7) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

(1) A description of the difference between the existing subcontract requirement and that proposed, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, and the effect of the change on the end item's performance.

(2) A list and analysis of the subcontract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) A separate, detailed cost estimate for--

- (i) the affected portions of the existing subcontract requirements, and
- (ii) the VECP.

The cost reduction associated with the VECP shall take into account the prime and subcontractor's allowable development and implementation costs, including any amount attributable to lower tier subcontracts under paragraph (h) below.

(4) A description and estimate of costs the Government or prime contractor may incur in implementing the VECP, such as test and evaluation and operating and support costs.

(5) A prediction of any effects the proposed change would have on collateral costs to the agency or prime contractor.

(6) A statement of the time by which a subcontract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.

(7) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and work assignment and/or contract numbers involved, and previous Government actions, if known.

(d) Submission. The Contractor shall submit VECP's to the \_\_\_\_\_ (insert appropriate prime contractor representative) at the worksite.

(e) Prime contractor action.

(1) The prime contractor shall notify the subcontractor of the status of the VECP within \_\_\_ calendar days after the prime contractor receives it. If additional time is required, the prime contractor shall notify the subcontractor within the \_\_\_-day period and provide the reason for the delay

and the expected date of the decision. The prime contractor will process VECP's expeditiously; however, it shall not be liable for any delay in acting upon a VECP.

(2) If the VECP is not accepted, the prime contractor shall notify the subcontractor in writing, explaining the reasons for rejection. The subcontractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the prime contractor. The prime contractor may require that the subcontractor provide written notification before undertaking significant expenditures for VECP effort.

(3) Any VECP may be accepted, in whole or in part, by the prime contractor's award of a modification to this subcontract citing this clause. The prime contractor may accept the VECP, even though an agreement on price reduction has not been reached, by issuing the subcontractor a notice to proceed with the change. Until such a notice to proceed is issued or a subcontract modification applies a VECP to this subcontract, the subcontractor shall perform in accordance with the existing subcontract.

(f) Sharing.

(1) Rates. The Government's share of savings is determined by subtracting Government costs from instant contract savings and multiplying the result by

(i) 45 percent for fixed-price contracts or

(ii) 75 percent for cost-reimbursement contracts.

(2) Payments. Payment of any share due the subcontractor for use of a VECP on this subcontract shall be authorized by a modification to this subcontract to--

(i) Accept the VECP;

(ii) Reduce the subcontract price or estimated cost by the amount of instant contract savings; and

(iii) Provide the subcontractor's share of savings by adding the amount calculated to the subcontract price or fee.

(g) Collateral savings. If a VECP is accepted, the instant contract amount shall be increased by 20 percent of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the subcontractor's share of collateral savings shall not exceed--

(1) the subcontract's firm-fixed-price or estimated cost, at the time the VECP is accepted, or

(2) \$100,000, whichever is greater.

The Government Contracting Officer shall be the sole determiner of the amount of collateral savings, and that amount shall not be subject to the Disputes clause or otherwise subject to litigation under 41 U.S.C. 601-613.

(h) Lower tier Subcontracts. The subcontractor shall include an appropriate value engineering clause in any lower tier subcontract of \$50,000 or more and may include one in lower tier subcontracts of lesser value. In computing any adjustment in this subcontract's price under paragraph (f) above, the subcontractor's allowable development and implementation costs shall include any lower tier subcontractor's allowable development and implementation costs clearly resulting from a VECP accepted by the Government under this subcontract, but shall exclude any value engineering incentive payments to a lower tier subcontractor; provided, that these payments shall not reduce the Government's share of the savings resulting from the VECP.

(i) Data. The subcontractor may restrict the prime contractor's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

"These data, furnished under the Value Engineering--Construction clause of contract \_\_\_\_\_, shall not be disclosed (insert either: "outside of the prime contractor or the Government" or: "to the prime contractor nor outside the Government") or duplicated, used or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the subcontractor or from another source without limitations."

If a VECP is accepted, the subcontractor hereby grants the prime contractor and the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the prime contractor and the Government shall have the rights specified in the subcontract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

## PART II - CONTRACT CLAUSES

## SECTION I - CONTRACT CLAUSES

## I.1 NOTICE Listing Contract Clauses Incorporated by Reference

## NOTICE:

The following solicitation provisions and/or contract clauses pertinent to this section are hereby incorporated by reference:

## FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

NUMBER	DATE	TITLE
52.202-1	OCT 1995	DEFINITIONS
52.203-3	APR 1984	GRATUITIES
52.203-5	APR 1984	COVENANT AGAINST CONTINGENT FEES
52.203-6	JUL 1995	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT
52.203-7	JUL 1995	ANTI-KICKBACK PROCEDURES
52.209-6	JUL 1995	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT
52.215-2	AUG 1996	AUDIT AND RECORDS--NEGOTIATION
52.215-8	OCT 1997	ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT
52.215-10	OCT 1997	PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA
52.215-12	OCT 1997	SUBCONTRACTOR COST OR PRICING DATA
52.215-15	OCT 1997	TERMINATION OF DEFINED BENEFIT PENSION PLANS
52.216-7	APR 1998	ALLOWABLE COST AND PAYMENT
52.219-8	JUN 1997	UTILIZATION OF SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS CONCERNS
52.222-3	AUG 1996	CONVICT LABOR
52.222-26	APR 1984	EQUAL OPPORTUNITY
52.222-35	APR 1998	AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA
52.222-37	APR 1998	EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA
52.222-43	MAY 1989	FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT - PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS)
52.227-16	JUN 1987	ADDITIONAL DATA REQUIREMENTS
52.232-17	JUN 1996	INTEREST
52.232-23	JAN 1986	ASSIGNMENT OF CLAIMS
52.232-33	AUG 1996	MANDATORY INFORMATION FOR ELECTRONIC FUNDS TRANSFER PAYMENT
52.233-1	OCT 1995	DISPUTES ALTERNATE I (DEC 1991)
52.233-3	AUG 1996	PROTEST AFTER AWARD ALTERNATE I (JUN 1985)
52.242-1	APR 1984	NOTICE OF INTENT TO DISALLOW COSTS

52.242-13	JUL 1995	BANKRUPTCY
52.253-1	JAN 1991	COMPUTER GENERATED FORMS
52.222-16	FEB 1988	APPROVAL OF WAGE RATES
52.232-22	APR 1984	LIMITATION OF FUNDS
52.233-3	AUG 1996	PROTEST AFTER AWARD
52.242-3	OCT 1995	PENALTIES FOR UNALLOWABLE COSTS
52.242-4	JAN 1997	CERTIFICATION OF FINAL INDIRECT COSTS
52.243-2	AUG 1987	CHANGES--COST REIMBURSEMENT ALTERNATE I (APR 1984)
52.245-5	JAN 1986	GOVERNMENT PROPERTY (COST-REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS)
52.249-14	APR 1984	EXCUSABLE DELAYS
52.227-1	JUL 1995	AUTHORIZATION AND CONSENT
52.229-3	JAN 1991	FEDERAL, STATE, AND LOCAL TAXES
52.229-5	APR 1984	TAXES--CONTRACTS PERFORMED IN U.S. POSSESSIONS OR PUERTO RICO
52.236-25	APR 1984	REQUIREMENTS FOR REGISTRATION OF DESIGNERS
52.243-1	AUG 1987	CHANGES--FIXED-PRICE ALTERNATE III (APR 1984)
52.249-7	APR 1984	TERMINATION (FIXED-PRICE ARCHITECT-ENGINEER)

**I.2 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (FAR 52.203-8) (JAN 1997)**

(a) If the Government receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the 1996 National Defense Authorization Act for Fiscal Year 1996 (Pub.L. 104-106), the Government may--

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which--

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27(a) or (b) of the Act for the purpose of either--

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsections 27(e)(1) of the Act.

(b) If the Government rescinds the contract under paragraph (a) of this clause, the government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

**I.3 PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER (FAR 52.204-4) (JUN 1996) DEVIATION**

(a) In accordance with Executive Order 12873, dated October 20, 1993, as amended by Executive Order 12995, dated March 25, 1996, the Offeror/Contractor is required to submit paper documents, such as offers, letters, or reports, that are printed/copied double-sided on recycled paper that has at least 20% postconsumer material.

(b) The 20% standard applies to high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white woven envelopes, and other uncoated printed and writing paper, such as writing and office paper, book paper, cotton fiber paper, and cover stock. An alternative standard to meeting the 20% postconsumer material standard is 50% recovered material content of certain industrial by-products.

#### **I.4 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (FAR 52.222-36) (JUN 1998)**

(a) General. (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as--

- (i) Recruitment, advertising, and job application procedures;
- (ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
- (iii) Rates of pay or any other form of compensation and changes in compensation;
- (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- (v) Leaves of absence, sick leave, or any other leave; (vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;
- (vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- (viii) Activities sponsored by the Contractor, including social or recreational programs; and
- (ix) Any other term, condition, or privilege of employment.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(b) Postings. (1) The Contractor agrees to post employment notices stating--

- (i) The Contractor's obligation under the law to take affirmative action

to employ and advance in employment qualified individuals with disabilities; and

(ii) The rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.

(c) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(d) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$10,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

#### **I.5 SUBCONTRACTS (COST-REIMBURSEMENT AND LETTER CONTRACTS) (FAR 52.244-2) (OCT 1997)**

(a) "Subcontract," as used in this clause, includes but is not limited to purchase orders, and changes and modifications to purchase orders. The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract if-

(1) The proposed subcontract is of the cost-reimbursement, time-and-materials, or labor-hour type;

(2) The proposed subcontract is fixed-price and exceeds either \$25,000 or 5 percent of the total estimated cost of this contract;

(3) The proposed subcontract has experimental, developmental, or research work as one of its purposes; or

(4) This contract is not a facilities contract and the proposed subcontract provides for the fabrication, purchase, rental, installation, or other acquisition of special test equipment valued in excess of \$25,000 or of any items of facilities.

(b) (1) In the case of a proposed subcontract that (i) is of the



cost-reimbursement, time-and-materials, or labor-hour type and is estimated to exceed \$25,000, including any fee, (ii) is proposed to exceed \$100,000, or (iii) is one of a number of subcontracts with a single subcontractor, under this contract, for the same or related supplies or services that, in the aggregate, are expected to exceed \$100,000, the advance notification required by paragraph (a) above shall include the information specified in subparagraph (2) below.

(2) (i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the competition obtained.

(iv) The proposed subcontract price and the Contractor's cost or price analysis.

(v) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

(vii) A negotiation memorandum reflecting-

(A) The principal elements of the subcontract price negotiations;

(B) The most significant considerations controlling establishment of initial or revised prices;

(C) The reason cost or pricing data were or were not required;

(D) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(c) The Contractor shall obtain the Contracting Officer's written consent before placing any subcontract for which advance notification is required under paragraph (a) above. However, the Contracting Officer may ratify in

writing any such subcontract. Ratification shall constitute the consent of the Contracting Officer.

(d) If the Contractor has an approved purchasing system and the subcontract is within the scope of such approval, the Contractor may enter into the subcontracts described in subparagraphs (a)(1) and (a)(2) of this clause without the consent of the Contracting Officer.

(e) Even if the Contractor's purchasing system has been approved, the Contractor shall obtain the Contracting Officer's written consent before placing subcontracts identified below:

-In excess of \$1,000,000.

(f) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination (1) of the acceptability of any subcontract terms or conditions, (2) of the allowability of any cost under this contract, or (3) to relieve the Contractor of any responsibility for performing this contract.

(g) No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in paragraph 15.404-4(c)(4)(i) of the Federal Acquisition Regulation (FAR).

(h) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(i) To facilitate small business participation in subcontracting, the Contractor agrees to provide progress payments on subcontracts under this contract that are fixed-price subcontracts with small business concerns in conformity with the standards for customary progress payments stated in FAR 32.502-1 and 32.504(f), as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered a handicap or adverse factor in the award of subcontracts.

(j) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

#### **I.6 COMPETITION IN SUBCONTRACTING (FAR 52.244-5) (DEC 1996)**

(a) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

(b) If the Contractor is an approved mentor under the Department of Defense Pilot Mentor-Protege Program (Pub. L. 101-510, section 831 as amended), the Contractor may award subcontracts under this contract on a noncompetitive

basis to its proteges.

**I.7 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (FAR 52.244-6) (APR 1998)**

(a) Definition.

"Commercial item", as used in this clause, has the meaning contained in the clause at 52.202-1, Definitions.

"Subcontract", as used in this clause, includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c) Notwithstanding any other clause of this contract, the Contractor is not required to include any FAR provision or clause, other than those listed below to the extent they are applicable and as may be required to establish the reasonableness of prices under Part 15, in a subcontract at any tier for commercial items or commercial components:

(1) 52.222-26, Equal Opportunity (E.O. 11246);

(2) 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212(a));

(3) 52.222-36, Affirmative Action for Handicapped Workers (29 U.S.C. 793); and

(4) 52.247-64, Preference for Privately Owned U.S.-Flagged Commercial Vessels (46 U.S.C. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996).

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

**I.8 SUBMISSION OF COMMERCIAL TRANSPORTATION BILLS TO THE GENERAL SERVICES ADMINISTRATION FOR AUDIT (FAR 52.247-67) (JUN 1997)**

(a)1) In accordance with paragraph (a)(2) of this clause, the Contractor shall submit to the General Services Administration (GSA) for audit, legible copies of all paid freight bills/invoices, commercial bills of lading (CBL's), passenger coupons, and other supporting documents for transportation services on which the United States will assume freight charges that were paid (i) by the Contractor under a cost-reimbursement contract, and (ii) by a first-tier subcontractor under a cost-reimbursement subcontract thereunder.

(2) Cost-reimbursement Contractors shall only submit for audit those CBL's with freight shipment charges exceeding \$50.00. Bills under \$50.00 shall be

retained on-site by the Contractor and made available for GSA on-site audits. This exception only applies to freight shipment bills and is not intended to apply to bills and invoices for any other transportation services.

(b) The Contractor shall forward copies of paid freight bills/invoices, CBL's, passenger coupons, and supporting documents as soon as possible following the end of the month, in one package to the General Services Administration, ATTN: FWA, 1800 F Street, NW, Washington, DC 20405. The Contractor shall include the paid freight bills/invoices, CBL's, passenger coupons, and supporting documents for first tier subcontractors under a cost-reimbursement contract. If the inclusion of the paid freight bills/invoices, CBL's, passenger coupons, and supporting documents for any subcontractor in the shipment is not practicable, the documents may be forwarded to GSA in a separate package.

(c) Any original transportation bills or other documents requested by GSA shall be forwarded promptly by the Contractor to GSA. The Contractor shall ensure that the name of the contracting agency is stamped or written on the face of the bill before sending it to GSA.

(d) A statement prepared in duplicate by the Contractor shall accompany each shipment of transportation documents. GSA will acknowledge receipt of the shipment by signing and returning the copy of the statement. The statement shall show --

- (1) The name and address of the Contractor;
- (2) The contract number including any alpha-numeric prefix identifying the contracting office;
- (3) The name and address of the contracting office;
- (4) The total number of bills submitted with the statement; and
- (5) A listing of the respective amounts paid or, in lieu of such listing, an adding machine tape of the amounts paid showing the Contractor's voucher or check numbers.

#### **I.9 CLAUSES INCORPORATED BY REFERENCE (FAR 52.252-2) (FEB 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://www.arnet.gov/far/>

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[ Insert one or more Internet addresses ]

#### **I.10 AUTHORIZED DEVIATIONS IN CLAUSES (FAR 52.252-6) (APR 1984)**

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated

by the addition of "DEVIATION" after the date of the clause.

(b) The use in this solicitation or contract of any Environmental Protection Agency (48 CFR Chapter 15) clause with an authorized deviation is indicated by the addition of "DEVIATION" after the name of the regulation.

**I.11 RESPONSIBILITY OF THE ARCHITECT-ENGINEER CONTRACTOR (FAR 52.236-23) (APR 1984) DEVIATION**

(a) The Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Contractor under this contract. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services.

(b) Neither the Government's review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Contractor shall be and remain liable to the Government in accordance with applicable law for all damages to the Government caused by the Contractor's negligent performance of any of the services furnished under this contract.

© The rights and remedies of the Government provided for under this contract are in addition to any other rights and remedies provided by law.

(d) If the Contractor is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

**I.12 SUBCONTRACTS (FIXED-PRICE CONTRACTS) (FAR 52.244-1) (OCT 1997)**

(a) This clause does not apply to firm-fixed-price contracts and fixed-price contracts with economic price adjustment. However, it does apply to subcontracts resulting from unpriced modifications to such contracts.

(b) "Subcontract," as used in this clause, includes but is not limited to purchase orders, and changes and modifications to purchase orders. The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract if the Contractor does not have an approved purchasing system and if the subcontract-

(1) Is proposed to exceed \$100,000; or

(2) Is one of a number of subcontracts with a single subcontractor, under this contract, for the same or related supplies or services, that in the aggregate are expected to exceed \$100,000.

(c) The advance notification required by paragraph (b) above shall include-

(1) A description of the supplies or services to be subcontracted;

(2) Identification of the type of subcontract to be used;

(3) Identification of the proposed subcontractor and an explanation of

why and how the proposed subcontractor was selected, including the competition obtained;

(4) The proposed subcontract price and the Contractor's cost or price analysis;

(5) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions;

(6) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract; and

(7) A negotiation memorandum reflecting-

(i) The principal elements of the subcontract price negotiations;

(ii) The most significant considerations controlling establishment of initial or revised prices;

(iii) The reason cost or pricing data were or were not required;

(iv) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;

(v) The extent, if any, to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and subcontractor; and the effect of any such defective data on the total price negotiated;

(vi) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(vii) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(d) The Contractor shall obtain the Contracting Officer's written consent before placing any subcontract for which advance notification is required under paragraph (b) above. However, the Contracting Officer may ratify in writing any such subcontract. Ratification shall constitute the consent of the Contracting Officer.

(e) Even if the Contractor's purchasing system has been approved, the Contractor shall obtain the Contracting Officer's written consent before placing subcontracts identified below:

\_In excess of \$1,000,000.

(f) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination (1) of the

acceptability of any subcontract terms or conditions, (2) of the acceptability of any subcontract price or of any amount paid under any subcontract, or (3) to relieve the Contractor of any responsibility for performing this contract.

(g) No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement subcontracts shall not exceed the fee limitations in subsection 15.404-4(c)(4)(i) of the Federal Acquisition Regulation (FAR).

(h) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

**I.13 INCENTIVE PRICE REVISION--FIRM TARGET (FAR 52.216-16) (OCT 1997)  
DEVIATION**

(a) General. The supplies or services identified in the Schedule as Items \_\_\_\_\_ are subject to price revision in accordance with this clause; provided, that in no event shall the total final price of these items exceed the ceiling price of \_\_\_\_\_ dollars (\$\_\_\_\_\_). Any supplies or services that are to be (1) ordered separately under, or otherwise added to, this work assignment and (2) subject to price revision in accordance with the terms of this clause shall be identified as such in a modification to this contract.

(b) Definition. "Costs," as used in this clause, means allowable costs in accordance with Part 31 of the Federal Acquisition Regulation in effect on the date of this contract.

(c) Data submission. (1) Within \_\_\_\_\_ days after the end of the month in which the Contractor has delivered the last unit of supplies and completed the services specified by item number in paragraph (a) of this clause, the Contractor shall submit in the format of Table 15-2, FAR 15.408, or in any other form on which the parties agree--

(i) A detailed statement of all costs incurred up to the end of that month in performing all work under the items;

(ii) An estimate of costs of further performance, if any, that may be necessary to complete performance of all work under the items;

(iii) A list of all residual inventory and an estimate of its value;  
and

(iv) Any other relevant data that the Contracting Officer may reasonably require.

(2) If the Contractor fails to submit the data required by subparagraph (1) above within the time specified and it is later determined that the Government has overpaid the Contractor, the Contractor shall repay the excess to the Government immediately. Unless repaid within 30 days after the end of the data submittal period, the amount of the excess shall bear interest, computed from the date the data were due to the date of repayment, at the rate established in accordance with the Interest clause.

(d) Price revision. Upon the Contracting Officer's receipt of the data required by paragraph (c) above, the Contracting Officer and the Contractor

shall promptly establish the total final price of the items specified in (a) above by applying to final negotiated cost an adjustment for profit or loss, as follows:

(1) On the basis of the information required by paragraph (c) above, together with any other pertinent information, the parties shall negotiate the total final cost incurred or to be incurred for supplies delivered (or services performed) and accepted by the Government and which are subject to price revision under this clause.

(2) The total final price shall be established by applying to the total final negotiated cost an adjustment for profit or loss, as follows:

(i) If the total final negotiated cost is equal to the total target cost, the adjustment is the total target profit.

(ii) If the total final negotiated cost is greater than the total target cost, the adjustment is the total target profit, less \_\_\_\_\_ percent of the amount by which the total final negotiated cost exceeds the total target cost.

(iii) If the final negotiated cost is less than the total target cost, the adjustment is the total target profit plus \_\_\_\_\_ percent of the amount by which the total final negotiated cost is less than the total target cost.

(e) Contract modification. The total final price of the items specified in paragraph (a) above shall be evidenced by a modification to this contract, signed by the Contractor and the Contracting Officer. This price shall not be subject to revision, notwithstanding any changes in the cost of performing the contract, except to the extent that--

(1) The parties may agree in writing, before the determination of total final price, to exclude specific elements of cost from this price and to a procedure for subsequent disposition of those elements; and

(2) Adjustments or credits are explicitly permitted or required by this or any other clause in this contract.

(f) Adjusting billing prices. (1) Pending execution of the contract modification (see paragraph (e) above), the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the target prices shown in this contract.

(2) If at any time it appears from information provided by the contractor under subparagraph (g)(2) below that the then-current billing prices will be substantially greater than the estimated final prices, the parties shall negotiate a reduction in the billing prices. Similarly, the parties may negotiate an increase in billing prices by any or all of the difference between the target prices and the ceiling price, upon the Contractor's submission of factual data showing that final cost under this contract will be substantially greater than the target cost.

(3) Any billing price adjustment shall be reflected in a contract modification and shall not affect the determination of the total final price under paragraph (d) above. After the contract modification establishing the



total final price is executed, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the total final price, and any resulting additional payments, refunds, or credits shall be made promptly.

(g) Quarterly limitation on payments statement. This paragraph (g) shall apply until final price revision under this contract has been completed.

(1) Within 45 days after the end of each quarter of the Contractor's fiscal year in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and for each quarter thereafter, the Contractor shall submit to the contract administration office (with a copy to the contracting office and the cognizant contract auditor) a statement, cumulative from the beginning of the contract, showing--

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government and for which final prices have been established;

(ii) The total costs (estimated to the extent necessary) reasonably incurred for, and properly allocable solely to, the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established;

(iii) The portion of the total target profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (g)) that is in direct proportion to the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established-- increased or decreased in accordance with subparagraph (d) (2) above, when the amount stated under subdivision (ii), immediately above, differs from the aggregate target costs of the supplies or services; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments).

(2) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount under subdivision (1)(iv) above exceeds the sum due the Contractor, as computed in accordance with subdivisions (1)(i), (ii), and (iii) above, the Contractor shall immediately refund or credit to the Government the amount of this excess. The Contractor may, when appropriate, reduce this refund or credit by the amount of any applicable tax credits due the Contractor under 26 U.S.C. 1481 and by the amount of previous refunds or credits effected under this clause. If any portion of the excess has been applied to the liquidation of progress payments, then that portion may, instead of being refunded, be added to the unliquidated progress payment account consistent with the Progress Payments clause. The Contractor shall provide complete details to support any claimed reductions in refunds.

(3) If the Contractor fails to submit the quarterly statement within 45 days after the end of each quarter and it is later determined that the Government has overpaid the Contractor, the Contractor shall repay the excess to the Government immediately. Unless repaid within 30 days after the end of the statement submittal period, the amount of the excess shall bear interest, computed from the date the quarterly statement was due to the date of repayment, at the rate established in accordance with the Interest clause.

(h) Subcontracts. No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.

(i) Disagreements. If the Contractor and the Contracting Officer fail to agree upon the total final price within 60 days (or within such other period as the Contracting Officer may specify) after the date on which the data required by paragraph (c) above are to be submitted, the Contracting Officer shall promptly issue a decision in accordance with the Disputes clause.

(j) Termination. If this contract is terminated before the total final price is established, prices of supplies or services subject to price revision shall be established in accordance with this clause for (1) completed supplies and services accepted by the Government and (2) those supplies and services not terminated under a partial termination. All other elements of the termination shall be resolved in accordance with other applicable clauses of this contract.

(k) Equitable adjustment under other clauses. If an equitable adjustment in the contract price is made under any other clause of this contract before the total final price is established, the adjustment shall be made in the total target cost and may be made in the maximum dollar limit on the total final price, the total target profit, or both. If the adjustment is made after the total final price is established, only the total final price shall be adjusted.

(l) Exclusion from target price and total final price. If any clause of this contract provides that the contract price does not or will not include an amount for a specific purpose, then neither any target price nor the total final price includes or will include any amount for that purpose.

(m) Separate reimbursement. If any clause of this contract expressly provides that the cost of performance of an obligation shall be at Government expense, that expense shall not be included in any target price or in the total final price, but shall be reimbursed separately.

(n) Taxes. As used in the Federal, State, and Local Taxes clause or in any other clause that provides for certain taxes or duties to be included in, or excluded from, the contract price, the term "contract price" includes the total target price or, if it has been established, the total final price. When any of these clauses requires that the contract price be increased or decreased as a result of changes in the obligation of the Contractor to pay or bear the burden of certain taxes or duties, the increase or decrease shall be made in the total target price or, if it has been established, in the total final price, so that it will not affect the Contractor's profit or loss on this contract.

## PART III - LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS

## SECTION J - LIST OF ATTACHMENTS

## J.1 LIST OF ATTACHMENTS (EP 52.252-100) (APR 1984)

<u>ATTACHMENT</u>	<u>DESCRIPTION</u>
A.	STATEMENT OF WORK
B.	REPORTS OF WORK
C.	PERFORMANCE FEE PLAN
D.	SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS SUBCONTRACTING PLAN
E.	INSTRUCTION FOR PERFORMING THE ANNUAL ALLOCATION OF NON-SITE SPECIFIC COSTS
F.	EPA MENTOR PROTÉGÉ PLAN
G.	RAC INSTRUCTIONS AND PROCEDURES FOR IMPLEMENTING THE ANNUAL CLOSEOUTS
H.	QUALITY MANAGEMENT PLAN
I.	QUALITY ASSURANCE PLAN
J.	HEALTH AND SAFETY PLAN
K.	CONFLICT OF INTEREST PLAN

PART IV - REPRESENTATIONS AND INSTRUCTIONS

SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS

K.1 Reference Statement

The Representations, Certifications, and other Statements of Offerers completed by the contractor as part of the response to the RFP PR-HQ-97-11857 are incorporated into this contract by reference.